

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

FILED
5 O'Clock P.M.

JUL 13 2011

SANDRA K MARKHAM, Clerk
By: Karen Wilkes

THE STATE OF ARIZONA

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER

Defendant.

No. P1300CR2008-1339

BEFORE:

THE HONORABLE WARREN R. DARROW
JUDGE PRO TEMPORE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
WEDNESDAY, AUGUST 25, 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

 **ORIGINAL**

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I N D E XT E S T I M O N YWITNESSPAGE**MICHAEL DOW**

Direct Examination by Mr. Butner	5
Cross-Examination by Ms. Chapman	19
Redirect Examination by Mr. Butner	22

LEON L. DANG

Direct Examination by Mr. Butner	25
Cross-Examination by Ms. Chapman	34
Redirect Examination by Mr. Butner	35

ALEX JARAMILLO

Direct Examination by Mr. Butner	41
Voir Dire Examination by Mr. Sears	54
Direct Examination Continued by Mr. Butner	57
Voir Dire Examination by Mr. Sears	69
Direct Examination Continued by Mr. Butner	71
Voir Dire Examination by Mr. Sears	75
Direct Examination Continued by Mr. Butner	76
Voir Dire Examination by Mr. Sears	96
Direct Examination Continued by Mr. Butner	97

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X (Continued)

T E S T I M O N Y

<u>WITNESS</u>	<u>PAGE</u>
ALEX JARAMILLO	
Voir Dire Examination by Mr. Sears	98
Direct Examination Continued by Mr. Butner	98
Voir Dire Examination by Mr. Sears	99
Direct Examination Continued by Mr. Butner	100
Cross-Examination by Mr. Sears	123

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P R O C E E D I N G S

THE COURT: Please be seated. Thank you. We are on the record in State of Arizona versus Steven Carroll DeMocker. His attorneys are present. The State's attorneys are present. And I've been informed by the bailiff, Mr. King, that the attorneys wish to speak to me about something. Mr. Sears.

MR. SEARS: A couple of matters, your Honor.

---oOo---

(Proceedings were held and reported, but are not contained herein.)

---oOo---

(Recess from 9:36 a.m. to 9:42 a.m.)

THE COURT: Thank you. Please be seated. We are on the record in the State of Arizona versus Steven Carroll DeMocker. The attorneys are present, Mr. Hammond, Ms. Chapman. And the State's represented by Mr. Butner and Mr. Paupore. The jury is present.

Mr. Butner, you may call your next witness.

MR. BUTNER: Thank you, Judge. Judge, we just need to make a modification to one of these exhibits. A bunch of documents were attached, and we just need the last four pages. The clerk informs me quite correctly, of course, that I must have your permission to do that. I consulted

1 with the defense, and they are in agreement.

2 THE COURT: Ms. Chapman?

3 MS. CHAPMAN: Yes, your Honor.

4 THE COURT: And the number of the exhibit?

5 MR. BUTNER: The exhibit number is 638.

6 THE COURT: 638.

7 MR. BUTNER: In fact, we'll move at this point
8 in time for the admission of Exhibit 638 as altered.

9 MS. CHAPMAN: Your Honor, as altered, it's
10 four pages, and we have no objection to the admission of
11 Exhibit 638.

12 THE COURT: Okay. Exhibit 638 will be
13 admitted as altered with just the four pages being admitted.

14 Mr. Sears is also present.

15 MR. SEARS: Thank you, your Honor.

16 MR. BUTNER: Thank you. And I would call Mike
17 Dow to the stand at this time.

18 THE COURT: Sir, if you would please step
19 where the bailiff is directing you and then raise your right
20 hand and be sworn by the clerk.

21

22 MICHAEL DOW,
23 called as a witness herein, having been first duly sworn, was
24 examined and testified as follows:

25

1 THE COURT: Please be seated here at the
2 witness stand.

3 And, sir, would you begin, please, by stating
4 and spelling your full name.

5 THE WITNESS: Michael Dow. M-I-C-H-A-E-L.
6 The last name is D-O-W.

7 THE COURT: Thank you.

8 Mr. Butner.

9
10 D I R E C T E X A M I N A T I O N

11 BY MR. BUTNER:

12 Q. Good morning, Mr. Dow.

13 A. Good morning.

14 Q. What is your present occupation?

15 A. I'm an investigator with Callaway Golf Company.

16 Q. And how long have you been with Callaway Golf
17 Company?

18 A. Just over 24 years.

19 Q. And how long have you been an investigator for
20 Callaway Golf Company?

21 A. Oh, going on 15 years I believe.

22 Q. And in your capacity as an investigator for
23 Callaway Golf Company, do you have care, custody, and control
24 of the -- bless you -- of the records kept by Callaway Golf
25 Company concerning the manufacture, production, and delivery

1 of their golf clubs?

2 A. I do.

3 Q. At some point in time you were contacted concerning
4 a number -- let's see -- a Big Bertha 3 No. 7 steelhead
5 wood-type golf club. Do you recall that?

6 A. I do.

7 Q. Okay. Who first contacted you concerning that
8 club, if you can recall?

9 MS. CHAPMAN: Relevance.

10 THE COURT: Overruled.

11 THE WITNESS: I believe that the first person
12 I talked to was -- I think it was John McDormett.

13 BY MR. BUTNER:

14 Q. And that's John McDormett of the Yavapai County
15 Sheriff's Office?

16 A. That's correct.

17 Q. In fact, did you request verification from
18 Mr. McDormett that he really was a deputy sheriff with the
19 Yavapai County Sheriff's Office?

20 A. Yes, I did.

21 Q. You received that?

22 A. I did.

23 Q. And then after your contact with Mr. McDormett from
24 the Yavapai County Sheriff's Office, did he ask you about a
25 specific golf club?

1 A. Yes, he did.

2 Q. Was it the Big Bertha 3 No. 7 steelhead wood-type
3 golf club?

4 A. That is correct.

5 Q. Okay. And did he ask you to make a search for any
6 kind of order of that particular type of club?

7 A. Yes, he did.

8 Q. Did you do that for him?

9 A. Yes, I did.

10 Q. In fact, was he seeking to find out if Mr. Steven
11 DeMocker had ordered and purchased such a club?

12 A. Yes, he was.

13 Q. And did you find those kinds of records?

14 A. I did.

15 Q. Let me show you what's been admitted into evidence
16 at this time as Exhibit Number 638. Would you take a look at
17 that, please. Was it -- okay.

18 May I approach, Judge?

19 THE COURT: Yes.

20 MR. BUTNER: I should have asked. Thank you.

21 THE COURT: That's fine. Excuse me.

22 THE WITNESS: Okay.

23 BY MR. BUTNER:

24 Q. Okay. Do you recognize Exhibit 638?

25 A. Yes, I do.

1 Q. What is it, please?

2 A. There's several documents here. One shows that
3 Van's Golf Shop called Callaway Golf and ordered a club, a
4 specific club, and generally when that happens, they have a
5 tag name for their customers so when it's shipped they know
6 who to call and let them know when it comes in.

7 Q. Okay.

8 A. So we've got an order that says it's tagged for
9 DeMarker.

10 Q. A Mr. DeMarker?

11 A. Correct.

12 Q. Okay. And how is that spelled by the way?

13 A. It is spelled D-E-M-A-R-K-E-R.

14 Q. Okay. And what else do you have there?

15 A. We have another document that shows the serial
16 number and, again, that was shipped to Van's. Again, has a
17 description of the club.

18 Q. Okay. And what is the serial number of that
19 particular club?

20 A. That serial number is 2000701141.

21 Q. Would you say that very slowly, please.

22 A. Yes. I'm sorry. 2000701141.

23 Q. Okay. And then what other information do you have
24 there in those documents?

25 A. There's a printout that shows what was special

1 about the club, which was that it was one inch over standard
2 length.

3 Q. Okay. So it was an inch longer than a usual No. 7
4 wood?

5 A. That is correct.

6 Q. Okay.

7 A. And then another document showing the ship date of
8 October 1, 2003.

9 Q. October 1 of 2003. And where was it shipped to?

10 A. It was shipped to Van's.

11 Q. And which Van's golf shop is that?

12 A. On Camelback.

13 Q. Do you have the precise address there?

14 A. I don't know that I have it on this document, but I
15 do have it.

16 MS. CHAPMAN: Your Honor, we need to ask which
17 document the witness is referring to?

18 THE COURT: Is it a different one from the
19 exhibit?

20 THE WITNESS: I have some of my own notes.

21 THE COURT: So he's referring to his own
22 notes, Ms. Chapman.

23 MS. CHAPMAN: Thank you.

24 THE WITNESS: Just for the shipping address.

25 THE COURT: Right.

1 THE WITNESS: It was shipped to 3217A East
2 Camelback Road in Phoenix, 85018.

3 BY MR. BUTNER:

4 Q. Okay. And what was the order date of that
5 particular club?

6 A. Order date was September 26, 2003.

7 Q. So Callaway got it out in about a week?

8 A. That's correct.

9 Q. Okay. And I'd like to show you -- well, first of
10 all, I'll show you a photograph of a club that's already
11 admitted into evidence, Exhibit Number 549, and ask if you'd
12 take a look at this particular exhibit. And those
13 photographs -- actually, there are three of them there. Do
14 you recognize what's depicted in Exhibit Number 549?

15 A. Yes, I do.

16 Q. What is that?

17 A. This is our left-handed steelhead 3 No. 7 wood Big
18 Bertha.

19 Q. And in looking at those photographs, can you tell
20 if that is the club that was shipped to Mr. DeMarker back in
21 October of 2003?

22 A. No, I cannot.

23 Q. Okay. Okay. What do you need to know in order to
24 make that determination?

25 A. Serial number would help.

1 Q. Okay. Let me show you what's been marked as
2 Exhibit Number -- well, I don't know. Maybe it hasn't been
3 marked.

4 THE COURT: I don't think it has.

5 MR. BUTNER: Okay. Do I need to mark it,
6 Judge, to show it to him because the photo's already been
7 admitted?

8 THE COURT: I would prefer to have it marked
9 so there be something to refer to in the trial.

10 MR. BUTNER: Okay. I thought it was. That's
11 some other mark.

12 BY MR. BUTNER:

13 Q. What's been marked as Exhibit Number 2977 for
14 identification purposes. Would you take a look at that
15 particular object?

16 A. Would you like me to take the club out?

17 Q. Yes, please. Do you recognize that object, sir?

18 A. Yes. Again, this is a Big Bertha steelhead 3
19 left-handed No. 7 wood.

20 Q. All right. And does it have a serial number on it?

21 A. Yes, it does.

22 Q. What is that serial number?

23 A. You're going to test my eyesight. 7000648407.

24 Q. Okay. Now, with that particular information, the
25 serial number on that club -- first of all, can you tell by

1 looking at that club if that's precisely the same kind of
2 club that was made for Mr. DeMarker?

3 A. It would be -- not knowing the length of this one,
4 the Mr. DeMarker club may have been an inch longer, but it's
5 the same style as this one.

6 Q. Okay. And so it's the steelhead No. 7; right?

7 A. That's correct.

8 Q. And what about the shaft, is that distinctive?

9 A. It's a firm flex shaft graphite.

10 Q. Okay. And is that the same as Mr. DeMarker's club?

11 A. Yes, it is.

12 Q. Okay. And then without measuring it, you can't
13 tell the length?

14 A. Correct.

15 Q. There was a ruler in one of the photographs there.
16 Did you see that? Would that establish the measuring length
17 on the shaft?

18 A. Unfortunately, no. We measure our clubs from the
19 butt end of the club to the end of the grip and this ruler
20 doesn't exactly go to the end of the grip --

21 Q. Okay.

22 A. -- so it would be hard to determine.

23 Q. Okay. Did you do some research concerning that
24 particular serial number, serial number 7000648407?

25 A. Yes, I did.

1 Q. And for whom was that particular club made?

2 A. This particular club was made for Edwin Watts Golf
3 Shop in Fort Walton Beach, Florida.

4 Q. And when was it made?

5 A. It was shipped on May 14th, 2003.

6 Q. Okay. So -- and was it shipped to Edwin Watts Golf
7 Shop in Fort Walton Beach, Florida?

8 A. Yes, it was.

9 Q. Okay. And do these serial numbers get registered
10 in some fashion by people?

11 A. Entirely up to the consumer. Some do; some don't.

12 Q. In this particular case on this club that you have
13 here, Exhibit 297, was that particular club registered?

14 A. It was not.

15 Q. Okay. How about Mr. DeMarker's golf club, was that
16 serial number, serial number 2000701141, was that one
17 registered?

18 A. It was not.

19 Q. Okay. Is that unusual?

20 A. Again, it's up to each individual consumer. Some
21 consumers like to have records on Callaway Golf's files and
22 some don't.

23 Q. And when those clubs are manufactured and shipped
24 out, do they come with a headcover?

25 A. Yes, they do.

1 Q. What kind of a headcover do they come with?

2 A. It's a standard headcover that just goes over the
3 club and it tells you what club it is.

4 Q. So does it have all the information on it about it
5 being a Big Bertha 3 No. 7 steelhead?

6 A. I believe it would, yes.

7 Q. And do you have any information at this point in
8 time concerning the location of the No. 7 steelhead golf club
9 that was made for Mr. DeMarker?

10 A. I do not.

11 Q. Okay. In terms of your records there, do you have
12 information as to exactly who the salesperson was at Nevada
13 Bob's or who handled the transaction?

14 A. According to this, I'm looking at -- apparently it
15 was Leon.

16 Q. Okay. I would like to use the overhead to just
17 show the jury the documents. And do you have -- oh, you've
18 got the documents. I want to use this, okay.

19 A. Uh-huh.

20 Q. Thank you, sir. Okay. Now, you can't read that,
21 can you? Mr. Dow, are you able to read Exhibit 634, I think
22 634, as depicted on the overhead there?

23 A. It's blurry, but I'm familiar with it, yes.

24 Q. Okay. And on this particular front sheet of the
25 exhibit, it says Callaway Golf Order Inquiry Overview; right?

1 A. Correct.

2 Q. Okay. And what information is provided on this
3 particular sheet?

4 A. The sold to party and ship to party being Van's of
5 Camelback. The document date, which would have been the
6 order date. The PO number, which is tagged I think for
7 DeMarker ordered by Leon. Leon would generally have been the
8 person at Van's who called in to our sales staff and placed
9 the order.

10 Q. Okay. So here's Mr. DeMarker's name; right?

11 A. Correct.

12 Q. And then there's Leon's name; right?

13 A. Yes.

14 Q. Okay. And then the order date is right up above
15 that?

16 A. Yes.

17 Q. 9/26/03; right?

18 A. Correct.

19 Q. Okay. And then it goes to sold to party Van's on
20 Camelback?

21 A. Yes.

22 Q. Okay. And then here's the -- oh, boy. That's the
23 second page of the document; right?

24 A. Correct.

25 Q. And what is this here?

1 A. That would be the serial number for that particular
2 club.

3 Q. So it's 2000701141; right?

4 A. Yes.

5 Q. Okay. And it describes up here what kind of club
6 it is; right?

7 A. Correct.

8 Q. LHWD?

9 A. That's left-handed wood.

10 Q. Steelhead.

11 A. Steelhead 3 No. 7.

12 Q. Okay.

13 A. Miscellaneous.

14 Q. What does the miscellaneous refer to?

15 A. That would refer to a special order.

16 Q. Okay. And in this case, the special order was
17 what?

18 A. One inch extra length.

19 Q. Okay. And then what's depicted on document
20 number three here?

21 A. That's the special order portion of the order.
22 It's plus one inch with a firm flex shaft.

23 Q. Okay. Right there. And then document number four?

24 A. That would indicate the ship date.

25 Q. Okay. And that's right up here?

1 A. Correct.

2 Q. And that's 10/1 of 2003?

3 A. Yes.

4 Q. Okay. And it also refers to that serial number
5 again; correct?

6 A. Yes, it does.

7 Q. So you're able to track these golf clubs right
8 along?

9 A. Yes.

10 MR. BUTNER: I don't have any further
11 questions of this witness at this time.

12 THE COURT: Thank you, Mr. Butner.

13 Ms. Chapman.

14

15 C R O S S - E X A M I N A T I O N

16 BY MS. CHAPMAN:

17 Q. Mr. Dow, you had mentioned that the shaft on the
18 golf club that was sent to Van's was one inch longer than
19 standard; is that correct?

20 A. That is correct.

21 Q. And was that an order placed by Van's for the one
22 inch longer on the shaft?

23 A. That is correct.

24 Q. And what's the standard length of a shaft for this
25 particular golf club?

1 A. You know, to be quite honest, I don't have that
2 information with me. It is -- I would be taking a guess.
3 I'm sorry. I don't have that information.

4 Q. Okay. So we don't know what the total length of
5 the shaft was on the club that was sent to Van's?

6 A. At this time, that's correct.

7 Q. All right. And the club that was shown to you,
8 Exhibit 2977, you said you can't determine whether that shaft
9 is also one inch longer than the standard length; is that
10 right?

11 A. That is right.

12 Q. Okay. And that club, Exhibit 27 -- 2977 doesn't
13 have anything to do with the golf club that Callaway shipped
14 to Van's; is that right?

15 A. That is correct.

16 Q. I think you also mentioned that the shaft was made
17 of graphite; is that correct?

18 A. Yes.

19 Q. And is that true of both the golf club that was
20 shipped to Van's and the golf club that is identified as
21 Exhibit 2977?

22 A. Yes.

23 Q. Okay. And then I wanted to make sure I understood
24 what you said. Every golf club has a serial number that
25 Callaway's identi- -- or that Callaway places on the golf

1 club; is that right?

2 A. Not every golf club, no.

3 Q. Okay. Did this golf club that was shipped to Van's
4 have a serial number that was placed on it by Callaway?

5 A. Yes, it did.

6 Q. And then I think I understood you to say that the
7 purchaser can register the serial number with Callaway.

8 A. That is correct.

9 Q. But not every purchaser does that?

10 A. Right.

11 Q. So that's up to the consumer about whether or not
12 they want to register their golf club at Callaway?

13 A. Correct.

14 Q. And in this particular case with the golf club that
15 was sent to Van's, that serial number was never registered
16 with Callaway?

17 A. It was not.

18 Q. And likewise I take it that the serial number that
19 was identified on Exhibit 2977, that was also never
20 registered with Callaway; is that right?

21 A. Correct.

22 Q. Okay. And do you know where Exhibit 2977 came
23 from?

24 A. I do not.

25 Q. Okay. And because the golf club that was sent to

1 Van's was never registered, do you or does anyone at Callaway
2 have any idea what happened to that club after it was shipped
3 to Van's in October of 2003?

4 A. No.

5 MS. CHAPMAN: Thank you.

6 No further questions, your Honor.

7 THE COURT: Thank you, Ms. Chapman.

8 MS. CHAPMAN: Mr. Butner, any redirect?

9 MR. BUTNER: Just one or two, Judge.

10 THE COURT: Sure.

11 MR. BUTNER: If I might approach.

12 THE COURT: Yes.

13

14 R E D I R E C T E X A M I N A T I O N

15 BY MR. BUTNER:

16 Q. Mr. Dow, would you step down for us from the stand
17 with that golf club and show us how you would measure the
18 shaft.

19 A. We would run a ruler.

20 MS. CHAPMAN: I can't --

21 A JUROR: I can't see.

22 THE BAILIFF: Mr. Dow, let's have you stand
23 here.

24 THE COURT: Jurors, feel free to move wherever
25 you'd like.

1 MR. BUTNER: You have to turn around and face
2 the jury, Mr. Dow.

3 THE COURT: Thank you.

4 THE WITNESS: When the club is at address, we
5 would have a measuring device that measures from the floor to
6 the end of the grip.

7 BY MR. BUTNER:

8 Q. When you say at address, is that the old saying
9 meaning addressing the ball?

10 A. Correct. At the correct lining of the club once
11 it's laying on the ground.

12 Q. And are these clubs generally specially fitted to
13 the purchaser?

14 A. Again, that's individuals. You know, we sell a lot
15 of stock clubs, but we sell a lot of custom clubs as well.

16 Q. Okay. This particular one when sold to Van's was a
17 custom club?

18 A. Yes, it was.

19 Q. So you measure from the floor so to speak up the
20 shaft?

21 A. Correct.

22 Q. At the address position?

23 A. Yes.

24 MR. BUTNER: Okay. Thank you very much,
25 Mr. Dow. No further questions, Judge.

1 THE COURT: Thank you.

2 Are there questions from the jury for Mr. Dow?

3 I don't see any hands. I guess there's not. No questions
4 then.

5 Mr. Butner, may Mr. Dow be excused as a
6 witness at this time?

7 MR. BUTNER: He may. Thank you, Mr. Dow.

8 THE COURT: Ms. Chapman?

9 MS. CHAPMAN: Yes.

10 THE COURT: Okay. Mr. Dow, you will be
11 excused as a witness. I will tell you that the rule of
12 exclusion of witnesses has been invoked in this case. That
13 means that you can't discuss your testimony or any other
14 aspect of this case with any other witness until the case is
15 completed or until the trial is completed. However, you can
16 talk to the lawyers as long as no other witness is present.
17 Do you understand that?

18 THE WITNESS: I do.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Step down, please.

22 THE WITNESS: Thank you.

23 (Brief pause.)

24 THE COURT: Mr. Butner.

25 MR. BUTNER: Call my next witness, Judge.

1 THE COURT: Yes.

2 MR. BUTNER: Mr. Leon Dang, please.

3 THE COURT: Okay. Sir, if you'd please stand
4 where the bailiff is indicating and then raise your right
5 hand and be sworn by the clerk.

6

7 LEON L. DANG,
8 called as a witness herein, having been first duly sworn, was
9 examined and testified as follows:

10

11 THE COURT: Please be seated here at the
12 witness stand.

13 And would you begin by stating and spelling
14 your full name, please.

15 THE WITNESS: Leon Luke Dang. L-E-O-N.
16 L-U-K-E. D-A-N-G.

17 THE COURT: Thank you.

18 Mr. Butner.

19

20 D I R E C T E X A M I N A T I O N

21 BY MR. BUTNER:

22 Q. Good morning, Mr. Dang.

23 A. Hi.

24 Q. Where do you presently reside? Just the city,
25 please.

1 A. In Phoenix.

2 Q. And what is your current occupation?

3 A. Real estate agent.

4 Q. Before becoming a real estate agent, did you have
5 another line of employment so to speak?

6 A. Yes.

7 Q. Where did you work?

8 A. I managed a golf shop called Nevada Bob's.

9 Q. And did Nevada Bob's come to be also known as
10 Van's?

11 A. Yes.

12 Q. And which Nevada Bob's/Van's did you manage?

13 A. 32nd Street and Camelback location.

14 Q. Do you remember the exact address?

15 A. 3201 East Camelback.

16 Q. And that's in Phoenix, Arizona; right?

17 A. Yes.

18 Q. And as the store manager, did you have care,
19 custody, and control of the purchase and payment records that
20 were kept by the store in the ordinary course of its
21 business?

22 A. Yes.

23 Q. You need to move close to that microphone,
24 Mr. Dang --

25 A. Yes.

1 Q. -- or pull it back towards you.

2 Okay. And how long did you work at Nevada
3 Bob's?

4 A. Just short of 20 years.

5 Q. And were you working as a manager of Nevada Bob's
6 back in the year 2003?

7 A. Yes.

8 Q. In fact, in September and October of 2003, were you
9 the store manager?

10 A. Yes.

11 Q. On that date -- I'm going to show you what's been
12 admitted into evidence as Exhibit Number 670, and ask if --
13 if you are familiar with that -- those particular documents,
14 Exhibit 670?

15 A. Yes.

16 Q. Did you have anything to do with the original
17 preparation of those documents?

18 A. Yes.

19 Q. Tell us what your role in that preparation was.

20 A. I ordered a club for a customer, and I filled out
21 the receipt saying what it was.

22 Q. Okay. And who was the customer?

23 A. DeMocker.

24 Q. Okay. Do you have the complete name of the
25 customer?

1 A. Not on these receipts, no.

2 Q. Okay. So it was a Mr. DeMocker?

3 A. Yes.

4 Q. And did you fill out the purchase order form?

5 A. Yes.

6 MR. BUTNER: I'd like to -- here's the
7 original. Let me give you another original. Would you just
8 mark these?

9 BY MR. BUTNER:

10 Q. Looking at what's been admitted into evidence as
11 Exhibit 670, what type of an order was this, Mr. Dang?

12 A. It was a golf club, a Callaway 7 wood.

13 Q. Okay. And was this a special order?

14 A. Yes.

15 Q. And tell us what was special about this particular
16 club.

17 A. It was left-handed and it was an extra length club.

18 Q. Okay. How much extra length was added?

19 A. One inch.

20 Q. So plus one inch?

21 A. Yes.

22 Q. And it was ordered from Callaway?

23 A. Yes.

24 Q. Was this a Big Bertha 3 No. 7 steelhead-type club?

25 A. Yes. I believe so, yes.

1 Q. Is that correct?

2 A. Yes.

3 Q. Okay. And are you the person that handled the
4 transaction?

5 A. Yes.

6 Q. And you recognize filling out that particular order
7 form?

8 A. The writing says I did. I -- you know, it was long
9 ago. I --

10 Q. You don't remember doing it?

11 A. I don't remember doing it, but obviously with the
12 writing, I know that I took part in the situation.

13 Q. Okay. You recognize your own handwriting on
14 that --

15 A. Yes.

16 Q. -- is that correct?

17 A. Yes. Those are my chicken scratches, yes.

18 Q. Okay. All right.

19 THE COURT: If you could have the microphone a
20 little closer to you. Thank you.

21 BY MR. BUTNER:

22 Q. And do you have any recollection of Mr. DeMocker
23 placing this order with you?

24 A. I -- I don't. I've been thinking about it. I
25 don't -- I've been lucky enough to see quite a few people

1 come through that store. I can't tell you for sure, you
2 know, every individual that I've seen unfortunately.

3 Q. Right. Well, let me show you now what's been
4 marked as Exhibit Number 2978. Do you recognize that
5 particular document?

6 A. Yes.

7 Q. What is that?

8 A. That's -- this looks like after the club came in,
9 we would call a customer. They would pick it up. This was
10 charged to -- we added the receipt off the cash register once
11 payment was received and stapled to the original document.

12 Q. Right. And that's the --

13 A. The rest of it was filled out.

14 Q. Is that the original of the documents --

15 A. Yes.

16 Q. -- that you have copies of --

17 A. Yeah.

18 Q. -- in front of you?

19 A. Uh-huh.

20 Q. Is that yes?

21 A. Yes.

22 MR. BUTNER: Okay. I would move for the
23 admission of Exhibit Number 2978 at this time.

24 MS. CHAPMAN: No objection.

25 THE COURT: 2978 is admitted.

1 BY MR. BUTNER:

2 Q. And then let me show you what's already admitted
3 into evidence as Exhibit Number 671. I'll take this folder.
4 Do you recognize that particular document, sir?

5 A. I -- yes. I --

6 Q. Okay. What is that?

7 A. It's one of our credit card receipts.

8 Q. Okay.

9 A. For a purchase of 319.92.

10 Q. Okay. \$319.92?

11 A. \$.92, uh-huh.

12 Q. And is that the same amount of money that was paid
13 by Mr. DeMocker for the No. 7 wood Big Bertha 3 steelhead?

14 A. Yes.

15 Q. And is that the date that, in fact, Mr. DeMocker
16 paid for that golf club?

17 A. Yes.

18 Q. And let me show you what's been marked as
19 Exhibit 2979. Do you recognize that document, sir?

20 A. Yes. That looks like the original too.

21 Q. That's the original of that receipt?

22 A. Yes, sir.

23 MR. BUTNER: I move for the admission of
24 Exhibit 2979 at this time.

25 MS. CHAPMAN: May I see it?

1 MR. BUTNER: Certainly.

2 MS. CHAPMAN: Thank you.

3 MR. BUTNER: Sorry.

4 MS. CHAPMAN: That's okay. No objection.

5 THE COURT: 2979 is admitted.

6 BY MR. BUTNER:

7 Q. Okay. And the purchaser of the No. 7 steelhead,
8 when did he order that?

9 A. 9/26 was the original date on the receipt.

10 Q. 9/26 of 2003?

11 A. Yes. Yes, sir.

12 Q. And when was it delivered?

13 A. It was -- you mean when it was picked up?

14 Q. Yes.

15 A. 10/09 of '03.

16 Q. 10/09 of 2003?

17 A. Yes.

18 Q. And paid for in full at that time by a credit card
19 receipt?

20 A. Yes.

21 Q. When -- when the order was placed, did you also get
22 the purchaser's telephone number?

23 A. Yes.

24 Q. Is that on the original order document?

25 A. Yes, it is.

1 Q. What is that telephone number?

2 A. (928) 713-1919.

3 Q. And these golf clubs like this, they're sold -- do
4 they have serial numbers when they're sold?

5 A. Yes. Callaway was probably -- well, probably the
6 second maybe after Ping that started serial numbering their
7 clubs.

8 Q. So did every club of this type to your knowledge
9 have a serial number associated with it?

10 A. I believe so, yes.

11 Q. Okay. It was stamped on the club someplace?

12 A. Yes.

13 Q. Do you remember where?

14 A. On some of them, it was on the bottom. Some of
15 them it I believe was on the hosel.

16 Q. And what's the hosel?

17 A. Where the shaft goes into the head of the club. I
18 think that's where it was on this club.

19 Q. Okay. You don't have the serial number on those
20 documents associated with this --

21 A. No.

22 Q. -- purchase, do you?

23 A. No.

24 MR. BUTNER: Thank you, Mr. Dang. I don't
25 have any further questions of you at this time.

1 THE COURT: Thank you, Mr. Butner.
2 Ms. Chapman.
3

4 C R O S S - E X A M I N A T I O N

5 BY MS. CHAPMAN:

6 Q. Good morning, Mr. Dang.

7 A. Hello.

8 Q. Do you know what the standard length of the shaft
9 on one of these clubs is?

10 A. I could backtrack. I'd have to think about it. I
11 could take a guess, but I'm not sure.

12 Q. But you're not sure? I'd rather that you not
13 guess.

14 You said this club that is indicated on this
15 receipt, 670 and 671, was an inch longer shaft?

16 A. Uh-huh.

17 Q. And why would someone order the shaft longer than
18 the standard?

19 A. For individual depending on their size, their
20 stance, makes it easier to make better contact with the ball
21 with their natural swing. They don't have to accommodate the
22 golf club. The club is accommodated to them.

23 Q. So it's based on the individual purchaser's
24 preference?

25 A. Uh-huh.

1 Q. Is that a yes?

2 A. Yes.

3 Q. She's just taking it down for us.

4 And other than -- and that is indicated --
5 this one inch over is indicated on Exhibit 670 that you
6 looked at; is that correct?

7 A. Yes.

8 Q. And that's done in your handwriting?

9 A. Yes.

10 Q. And after this golf club was purchased in 2003, did
11 you or anyone at Nevada Bob's see it again or have any
12 occasion to do anything with this golf club?

13 A. You mean after it got sent to us or --

14 Q. After it was picked up.

15 A. After it was picked up?

16 Q. In 2003.

17 A. Not to my knowledge, no.

18 MS. CHAPMAN: Okay. Thank you.

19 THE COURT: Thank you, Ms. Chapman.

20 Any redirect, Mr. Butner?

21 MR. BUTNER: Just a little bit, Judge.

22

23 R E D I R E C T E X A M I N A T I O N

24 BY MR. BUTNER:

25 Q. In regard to the extended shaft or one-inch longer

1 shaft, is that something that a taller than average golfer
2 would order?

3 A. In a lot of circumstances, yes.

4 Q. That's typically the reason?

5 A. Yes.

6 Q. Okay. And if I could, I'd like to put the
7 documents on the overhead, Judge.

8 THE COURT: All right.

9 MR. BUTNER: Thank you. I'll leave those for
10 you.

11 (Brief pause.)

12 BY MR. BUTNER:

13 Q. Okay. That's the payment document; is that
14 correct?

15 A. Yes.

16 Q. At Nevada Bob's, 32 -- how about 3217A?

17 A. It's --

18 Q. Does that refresh your recollection?

19 A. I think it's been four years since I've been in
20 that shop so I'm sorry about that.

21 Q. That's all right. So that refreshes your
22 recollection as to the address?

23 A. Yes.

24 Q. And \$319.92; right?

25 A. Yes.

1 Q. Okay. And then let me show you -- that was for the
2 record Exhibit Number 2979.

3 Okay. And now -- and it's picked up on
4 October 9th of 2003; right?

5 A. Yes.

6 Q. And then here's 2978, and I'm flipping this receipt
7 up first so that we can see the writing underneath it. Okay.
8 Now, this writing -- you've got a laser pointer in front of
9 you. If you could point to what you wrote on this. You have
10 to press that little button. There you go.

11 A. Oh, press it down. Okay.

12 Q. There you go.

13 What things on this receipt did you write,
14 Mr. Dang?

15 A. All this is my writing. I recognize all this. All
16 this. All this is my writing.

17 Q. Okay.

18 A. All this.

19 Q. Okay.

20 A. And this.

21 Q. All right. So that's the price down there 319.92?

22 A. Uh-huh.

23 Q. Is that yes?

24 A. Yes.

25 Q. Okay.

1 A. Sorry.

2 Q. But the golf club itself, it's right up here where
3 they describe Callaway 7 wood; right?

4 A. Uh-huh. Yes.

5 Q. And it says left; right?

6 A. Yes.

7 Q. Indicating a left-handed club?

8 A. Yes.

9 Q. And then you put one inch over there; is that
10 correct?

11 A. Yes.

12 Q. And then also apparently Mr. DeMocker bought four
13 balls; right?

14 A. Yes.

15 Q. Okay. And that was 13.99?

16 A. 13.99. Yes.

17 Q. And then you indicated it was going to take what,
18 two weeks --

19 A. Two weeks.

20 Q. -- to deliver, huh?

21 A. Yeah.

22 Q. And that's Mr. DeMocker's phone number up there?

23 A. Yes.

24 Q. And there's your name right there, huh?

25 A. Yes.

1 Q. You're the person who sold it?

2 A. Uh-huh.

3 Q. Is that yes?

4 A. Yes.

5 Q. Okay. And then flipping that receipt down,
6 that's -- that's the purchase -- what is that? The receipt
7 for what?

8 A. This is the receipt out of the cash register.
9 After it was picked up, we staple it to the -- to the invoice
10 and put it into a -- the box where all our done items are
11 placed.

12 Q. Okay. Kept with your records?

13 A. Right.

14 Q. Okay. And there's the date that it was paid for
15 on; right?

16 A. Yes.

17 Q. 10/9 of '03 at 5:37 p.m.?

18 A. Yes.

19 MR. BUTNER: Okay. Nothing further, Judge.
20 Thank you.

21 THE COURT: Thank you.

22 Any questions for this witness from the jury?
23 I don't see any hands.

24 Okay. Counsel, may Mr. Dang be excused as a
25 witness? Mr. Butner?

1 MR. BUTNER: Yes, he may, your Honor.

2 THE COURT: Ms. Chapman?

3 MS. CHAPMAN: He may, your Honor. Thank you.

4 THE COURT: Thank you.

5 Mr. Dang, you will be excused as a witness. I
6 want to make sure you understand that the ruling of exclusion
7 of witnesses has been invoked in this case. That means that
8 you cannot communicate with any other witness about your
9 testimony or about any other aspect of this case until the
10 trial is completed. However, you can talk to the lawyers as
11 long as no other witness is present. Do you understand?

12 THE WITNESS: Yes, sir.

13 THE COURT: Thank you. Please watch your
14 step. You are excused at this time.

15 THE WITNESS: Thank you.

16 THE COURT: Mr. Butner.

17 MR. BUTNER: The State would call Detective
18 Alex Jaramillo to the stand.

19 THE COURT: Okay. Sir, if you would please
20 stand where the bailiff indicates and then raise your right
21 hand and be sworn by the clerk.

22

23 ALEX JARAMILLO,
24 called as a witness herein, having been first duly sworn, was
25 examined and testified as follows:

1 THE COURT: Please be seated here at the
2 witness stand. Sir, please begin by stating and spelling
3 your full name.

4 THE WITNESS: Alex Jaramillo. A-L-E-X
5 J-A-R-A-M-I-L-L-O.

6 THE COURT: Thank you.

7 Mr. Butner.

8 MR. BUTNER: Thank you, Judge.

9
10 D I R E C T E X A M I N A T I O N

11 BY MR. BUTNER:

12 Q. What is your occupation, sir?

13 A. My occupation I'm a detective with the Yavapai
14 County Sheriff's Office.

15 Q. And how long have you been with the Yavapai County
16 Sheriff's Office?

17 A. Since 1996.

18 Q. And so that is what, approximately 14 years?

19 A. Yes, sir.

20 Q. Okay. And how long have you been a detective?

21 A. Since March of 2007.

22 Q. And in order to prepare yourself for your
23 occupation first of all as a deputy with the Yavapai County
24 Sheriff's Office, have you had any special training?

25 A. Yes. I went through academies and --

1 Q. Okay. Please tell us -- would you describe your
2 special training and education in that regard for us.

3 A. Well, the academy consists of going over Arizona
4 statutes.

5 Q. What academy is it, Detective Jaramillo?

6 A. It's -- I actually went through a college. It's
7 Northland Pioneer College.

8 Q. Okay.

9 A. And it was a college course, a year-long course.

10 Q. And where's the Northland Pioneer College located
11 at?

12 A. That's in Navajo County.

13 Q. And so you went one year to that particular
14 college?

15 A. Yes, sir, I did.

16 Q. And tell us what courses you studied.

17 A. Well, basic law, firearms training, collection of
18 evidence, Arizona Revised Statutes, stuff like that.

19 Q. Okay. And then before coming to work or once you
20 did come to work at Yavapai County Sheriff's Office, did you
21 have any special training to prepare you to work as a deputy
22 Yavapai County sheriff?

23 A. No special training, no. I actually worked at the
24 Arizona Department of Corrections for a year before and also
25 worked in the jail for Yavapai County as well.

1 Q. Okay. Did you go -- undergo a period of field
2 training?

3 A. Yes, I did.

4 Q. And how long did that last?

5 A. Approximately three months.

6 Q. So that was on-the-job training; is that correct?

7 A. Yes, sir.

8 Q. And have you had any additional training since that
9 time that specially prepared you to be a detective?

10 A. Yeah. I went through several interrogation and
11 interview classes put on through AZPOST, through our own
12 agency as well.

13 Q. And any particular training concerning evidence
14 collection and so forth at homicide scenes?

15 A. A few courses through DPS, Department of Public
16 Safety. A few courses through AZPOST regarding crime scene
17 investigation.

18 Q. Sir, what is AZPOST?

19 A. Arizona standards and training. It's the -- it's
20 POST.

21 Q. Is that the entity that certifies police officers?

22 A. Yes.

23 Q. And then you've been performing duties as a
24 detective since March of 2007; is that correct?

25 A. Yes, sir. Yes, sir.

1 Q. Okay. Were you working as a detective for the
2 Yavapai County Sheriff's Office on or about the date of July
3 the 2nd of the year 2008?

4 A. Yes, I was.

5 Q. And did you have occasion to become involved in an
6 investigation of the homicide of Virginia Carol Kennedy?

7 A. Yes, I did.

8 Q. How did you get involved in that particular
9 investigation?

10 A. I was called by one of the supervisors in Prescott
11 to respond to the Prescott office to assist in the
12 investigation.

13 Q. And where were you working at that time?

14 A. I was working out of the Camp Verde office.

15 Q. So you were working in the Verde as a detective?

16 A. Yes, I was.

17 Q. Okay. Do you recall approximately what time you
18 received that call?

19 A. It was after midnight, I believe.

20 Q. So it was actually in the morning of -- the early
21 morning hours of July the 3rd of the year 2008?

22 A. Yes, sir.

23 Q. And did you respond at that time?

24 A. Yes, I did.

25 Q. Where did you respond to?

1 A. Responded to the Prescott office.

2 Q. Approximately what time did you get to the Prescott
3 office?

4 A. I'm gonna -- about an hour and a half later.

5 Q. Do you have a recollection as to the approximate
6 time?

7 A. I'm going to say after 1:00 o'clock in the morning.

8 Q. And then what -- what did you do at that point in
9 time once you responded to the Prescott office?

10 A. I was asked by Detective Sergeant Luis Huante to
11 assist with an authoring a search warrant.

12 Q. Okay. Can you tell us how you assisted in
13 authoring a search warrant?

14 A. Basically collected information on the residence
15 that were going to be searched, the business office that was
16 going to be searched, the vehicle information and provided
17 that information to Detective Theresa Kennedy.

18 Q. And she was preparing the search warrant?

19 A. Yes, she was.

20 Q. And the residence that was going to be searched,
21 was this the residence at 7485 Bridle Path?

22 A. Yes, it was.

23 Q. And what was your understanding as to the
24 significance of that particular residence?

25 A. That's where the victim Theresa Kennedy was found.

1 Q. The victim Carol Kennedy?
2 A. I'm sorry, Carol Kennedy.
3 Q. Okay.
4 A. Carol Kennedy.
5 Q. Theresa Kennedy is one --
6 A. Correct.
7 Q. -- one of the detectives; right?
8 A. Right.
9 Q. No relation; right?
10 A. No, there's not.
11 Q. Okay. And then you say you were gathering
12 information about the office too. Is that an office located
13 on Plaza Drive?
14 A. Yes, sir.
15 Q. Whose office was it?
16 A. That was Mr. DeMocker, the UBS office.
17 Q. Okay. And then what other area was going to be
18 searched?
19 A. His residence, Mr. DeMocker's residence as well.
20 Q. Okay. And that residence was located where?
21 A. In Prescott.
22 Q. Okay. Was that near the Hassayampa Country Club?
23 A. Yes, it was.
24 Q. Do you recall the exact address?
25 A. No. I can look it up for you.

1 Q. Do you have your reports and so forth with you?

2 A. Yes.

3 Q. Do you need to refresh your recollection --

4 A. Yes, I do.

5 Q. -- concerning that address?

6 A. Yes.

7 MR. BUTNER: May he, your Honor?

8 THE COURT: Defense?

9 MR. SEARS: If that's what he needs to do,
10 that's fine, your Honor.

11 THE COURT: He may.

12 BY MR. BUTNER:

13 Q. Just take a look at it, refresh your recollection,
14 and then if you would put your reports up on the bar there in
15 front of you. Take a look at it and then turn it back over
16 so that you're not testifying directly from your report,
17 please.

18 (Brief pause. Witness reviewing documents.)

19 THE WITNESS: 1760 Alpine Meadows.

20 BY MR. BUTNER:

21 Q. And so was a search warrant prepared for all of
22 those locations?

23 A. Yes, there was.

24 Q. Okay. And that was actually the search -- the
25 first search warrant prepared in connection with this case?

1 A. Yes, it was.

2 Q. And tell us what your role was in connection with
3 that first search warrant after its preparation.

4 A. The first thing we did -- well, the first thing I
5 did, we went over to the UBS office and started that search
6 at the business.

7 Q. Okay. And what did you do in connection with the
8 search of the UBS office?

9 A. I searched the office space, Mr. Farmer, one of the
10 other co-workers, some of the common areas and the bathroom.

11 Q. And you say Mr. Farmer. What -- what was your role
12 in connection with Mr. Farmer there at the UBS office?

13 A. His office was locked and we needed him to open it
14 up and I searched his office.

15 Q. And was Mr. Farmer around at that time?

16 A. Yes, he was.

17 Q. Did he have any objections to you searching?

18 A. No, he did not.

19 Q. And did you do any seizing of evidence there at the
20 UBS office?

21 A. No, I did not, no.

22 Q. Okay. And then did you do any searching anyplace
23 else?

24 A. Yes.

25 Q. Where did you go?

1 A. The victim's residence.

2 Q. Out on Bridle Path?

3 A. Yes, sir.

4 Q. And that's out Williamson Valley Road; correct?

5 A. Correct.

6 Q. And what was your role at the Bridle Path
7 residence?

8 A. My role, I assisted in searching the residence
9 and -- that day.

10 Q. Okay. Approximately what time did you arrive at
11 the Bridle Path residence?

12 A. Just after the -- the UBS office and DeMocker's
13 residence. I'm going to estimate about 9:30, 10:00 o'clock.

14 Q. 9:30 or 10:00 o'clock in the morning?

15 A. Correct.

16 Q. Okay. And what did you do upon arrival at the
17 Bridle Path location?

18 A. We waited for our evidence team to take photographs
19 of the exterior and then the photographs of the inside of the
20 residence before we -- before I entered.

21 Q. Okay. So when you say the evidence team, who are
22 you talking about that was taking these photographs?

23 A. The evidence person -- the supervisor was Josh
24 Nelson.

25 Q. And he's the supervising evidence tech?

1 A. Yes.

2 Q. And then who was on his team to your recollection?

3 A. I believe it was Dawn Miller. The other lady
4 doesn't work for us anymore. I can't remember her last name.

5 Q. Is that Ms. -- it's a hard name to pronounce. I
6 think it's Madaffari.

7 A. Madaffari, yes. Leslie Madaffari, yes.

8 Q. And what were their duties?

9 A. At the time, I recall Mr. Nelson taking the
10 photographs of the exterior and taking photographs of the
11 interior residence.

12 Q. And you and the searchers waited until this was
13 accomplished?

14 A. Correct.

15 Q. And did you sign in at the log for the crime scene?

16 A. Correct.

17 Q. Okay. And where did you wait while these
18 photographs were taken?

19 A. Outside the residence.

20 Q. And then once they had completed taking the
21 photographs, what did you do at that point in time?

22 A. We -- I entered the residence through the French
23 doors just outside the kitchen area, dining area.

24 Q. Okay. So this comes into the kitchen/dining area.
25 Do you recall which side of the house this was located on in

1 terms of directions?

2 A. Well, I guess it would depend on looking at a map
3 and north south. I'm going -- south door.

4 Q. Okay. They're on the south side of the residence?

5 A. Correct.

6 Q. And where did you -- did you begin searching at
7 that point in time?

8 A. No, not right away, no.

9 Q. Okay. What did you do?

10 A. I walked through the residence just looking at the
11 condition basically, yes.

12 Q. All right. And did you note anything of
13 significance at that time when you were walking through?

14 A. No. Just making just mental notes of where things
15 were inside the home, how the rooms looked.

16 Q. Okay. And did you search any particular rooms?

17 A. Yes. Inside the home, I searched the -- the
18 kitchen area, the dining area. There was another living area
19 just off of the dining room area, living room area. Down the
20 hallway, there's a few bedrooms, bathroom, master bedroom,
21 closet bathroom, and the room where the victim was found.

22 Q. Okay. So -- so did you search all of those rooms?

23 A. Yes.

24 Q. Okay. Where did you start?

25 A. Started in the kitchen area. Worked my way through

1 the living room, down the hallway into the -- the laundry
2 room, the bedroom immediately across from the laundry room,
3 the bathroom, then to the master bedroom, closet, and
4 bathroom.

5 Q. Okay. Let's go -- we want to go step by step. So
6 you started in the living room area?

7 A. The kitchen area.

8 Q. The kitchen area?

9 A. Dining area, yes.

10 Q. Okay. And did you seize anything in that
11 particular area?

12 A. In the kitchen area, I believe there was a cell
13 phone there on the counter.

14 Q. And are you the person -- actually the person who
15 found that particular cell phone?

16 A. Correct.

17 Q. Let me show you what's been marked for
18 identification purposes.

19 MR. BUTNER: May I approach, Judge?

20 THE COURT: Yes, you may.

21 BY MR. BUTNER:

22 Q. As 357. Do you recognize what's depicted in that
23 particular photograph?

24 A. Yes. The cell phone.

25 Q. And where did you find that cell phone?

1 A. Kitchen counter.

2 Q. And what was your understanding as to who was the
3 owner of that cell phone?

4 A. I don't know who the owner was. It was just
5 something that was collected.

6 Q. Okay. So you found it on the kitchen counter of
7 the residence at 7485 Bridle Path --

8 A. Correct.

9 Q. -- is that correct?

10 A. Correct.

11 Q. And what was done with the cell phone once you
12 seized it pursuant to the search warrant?

13 A. The phone was sent to the lab.

14 Q. You placed it into Yavapai County Sheriff's
15 evidence?

16 A. Correct.

17 Q. And then it was transmitted to which lab?

18 A. I'm not sure which lab.

19 Q. For further analysis?

20 A. Correct.

21 MR. BUTNER: I would move for the admission of
22 Exhibit 357 at this time.

23 MR. SEARS: A question or two, your Honor.

24 THE COURT: Okay.

25

1 V O I R D I R E E X A M I N A T I O N

2 BY MR. SEARS:

3 Q. Detective Jaramillo, Carol Kennedy's purse was also
4 on the kitchen counter when you were searching that area;
5 right?

6 A. Correct.

7 Q. Where was the cell phone in relation to her purse,
8 if you remember?

9 A. I don't remember. I would have to look at the
10 photographs in relation to the purse.

11 Q. Was the cell phone in the purse?

12 A. No.

13 Q. Was the purse seized?

14 A. Correct.

15 Q. It was?

16 A. I believe so, yes.

17 Q. By you?

18 A. No.

19 Q. Okay. You took the phone though?

20 A. Correct. The phone was collected as evidence, yes.

21 Q. By you?

22 A. I was the finder, yes.

23 Q. Okay. And did you open the phone up and turn it
24 on?

25 A. No. I didn't touch the phone, no.

1 MR. SEARS: No objection.

2 THE COURT: 357 is admitted.

3 MR. BUTNER: Judge, I didn't get to line up
4 this witness' exhibits and so forth before putting him on the
5 stand. I think it might be a good idea to take the break at
6 this time, if possible.

7 THE COURT: Good time to do that. We'll take
8 the morning recess. Remember the admonition.

9 Ladies and gentlemen, I want to bring up just
10 a couple things about the admonition. As you know, we have
11 these reminders now and then.

12 There was one -- I won't say incidence. I
13 guess somebody at some point had brought a laptop computer
14 into the jury room and I'm asking that that not be done and
15 that really includes various computer-type devices. There
16 are certain phones, PDAs, Blackberries, anything that can be
17 used for access to the Internet, that type of thing, I'm
18 going to ask that you not have those in the jury room.

19 And then another aspect that involves the
20 admonition as well. I understand perhaps some people have
21 acquaintances, perhaps spouses or other acquaintances that
22 may be actually observing the trial. And I just want to
23 point out that that, of course, can raise some concerns with
24 regard to the admonition because those people might be here
25 in court when you can't be here in court. And I'm just

1 concerned that it could facilitate conversations about the
2 case and I know you've all assured me and you've assured all
3 of us that you would not violate the admonition in any way,
4 but I really want to caution people about those situations if
5 there are acquaintances here, close acquaintances, spouses or
6 otherwise who are friends that are watching the trial, be
7 very, very careful in that regard.

8 So we will go ahead and take the morning
9 recess. Please reassemble at five after 11:00, so it will be
10 a little more than 15 minutes.

11 And, Detective, you also can take your break.
12 And you know that the rule of exclusion of witnesses has been
13 invoked; correct?

14 THE WITNESS: Yes, sir.

15 THE COURT: Thank you. We'll take the recess.

16 (Recess from 10:45 a.m. to 11:09 a.m.)

17 THE COURT: Please be seated. Thank you.

18 The record will show the presence of the
19 defendant, Mr. Sears and Mr. Hammond representing
20 Mr. DeMocker. The State's represented by Mr. Butner and
21 Mr. Paupore. And the jury is present. Detective Jaramillo
22 is on the stand and of course has been sworn for all
23 testimony in this proceeding.

24 Mr. Butner.

25

1 DIRECT EXAMINATION (Continued)

2 BY MR. BUTNER:

3 Q. Okay. Detective Jaramillo, you had a search
4 warrant that you executed when you seized that cell phone; is
5 that correct, sir?

6 A. Yes, sir.

7 Q. Okay. And did you make a return on that search
8 warrant showing that you had seized the cell phone?

9 A. Correct.

10 Q. Let's see. I think this is the right exhibit.
11 Wait a minute. There it is. Okay. I'm showing you what's
12 admitted into evidence as Exhibit 794. Do you recognize that
13 particular document, sir?

14 A. Yes, sir.

15 Q. Okay. And is that the search warrant that you were
16 executing when you were searching at Bridle Path and also at
17 the UBS office and Mr. DeMocker's residence?

18 A. Yes, sir.

19 Q. In reviewing Exhibit 794, does it also have your
20 return on it?

21 A. Correct.

22 Q. Showing where you returned the search warrant
23 noting that you had seized the cell phone?

24 A. Correct.

25 Q. Could you find that particular document there.

1 A. The search warrant supplement?

2 Q. The return.

3 A. It's right here in front of me.

4 Q. I know. The supplement is part of the return,
5 Detective.

6 A. Correct.

7 Q. Would you find that particular as you call it
8 supplement which lists the cell phone that you seized.

9 A. Yes, I find it.

10 Q. Okay. Let me -- I want to look at that one. Thank
11 you. Great. Thank you very much.

12 And so you submitted this to the court; is
13 that correct?

14 A. I did not. Detective Brown did.

15 Q. Okay. Okay. Can you see that exhibit on the
16 overhead now?

17 MR. SEARS: Your Honor, can we have a Bates
18 number for that page, please?

19 MR. BUTNER: This page does not have a Bates
20 number. This whole warrant does not have a Bates number,
21 Mr. Sears. It's a certified document already admitted into
22 evidence.

23 MR. SEARS: This is 794, your Honor?

24 THE COURT: Yes.

25 MR. BUTNER: And, unfortunately, the pages

1 aren't numbered either. Oop, this is page 5 of 5 of the
2 search warrant supplement, the index of items that were
3 seized.

4 BY MR. BUTNER:

5 Q. And --

6 MR. SEARS: I'm sorry. If I might just have a
7 moment so I can locate that page.

8 THE COURT: Okay.

9 MR. SEARS: Thank you, your Honor. I'm there.

10 THE COURT: Okay. Ms. Chapman is now present
11 as well.

12 BY MR. BUTNER:

13 Q. Okay. Referring to page 5 of 5 of the search
14 warrant supplement, which is attached to the return of the
15 search warrant; right?

16 A. Correct.

17 Q. Okay. Does it list the item that you seized, the
18 cell phone?

19 A. Yes, it does.

20 Q. Okay. Which item is it, please?

21 A. Item number 553.

22 Q. Okay. Is it this one down at the bottom?

23 A. Yes, sir.

24 Q. Okay. And then you submitted that for laboratory
25 analysis; is that correct?

1 A. It was placed in our evidence and subsequently to
2 the lab it went, yes.

3 Q. Okay. And did you do other searching at the Bridle
4 Path residence?

5 A. Yes, I did.

6 Q. When did you -- what type of -- let's back up and
7 start at the beginning in terms of the searching that you
8 did. You said you searched the -- okay. Good.

9 You indicated that you searched the living
10 room; is that correct?

11 A. Yes, I did.

12 Q. Let me show you what's been admitted into evidence
13 as Exhibit 631. Do you recognize what's depicted in this
14 exhibit, Detective Jaramillo?

15 A. Yes.

16 Q. What?

17 A. The victim's residence.

18 Q. Okay. And would you point to the entry -- you have
19 a laser pointer in front of you. Yes. That -- right.

20 Would you point to the door through which you
21 entered the residence when you began to search?

22 A. (Witness indicates.)

23 Q. Okay. And those are the French doors that go into
24 the dining room and kitchen area; is that correct?

25 A. Correct.

1 Q. And would you point to the area where the cell
2 phone was located.

3 A. On the kitchen counter, but like I said, I need to
4 see the photographs to actually get an idea of where it was
5 actually picked up from.

6 Q. Okay. All right. Let me show you first of all
7 what's admitted into evidence as Exhibit 818. No, it's not
8 818. I'm sorry. It's Exhibit Number 2322. Do you recognize
9 what's depicted in that particular photograph?

10 A. Dining area and the island and the beginning of the
11 kitchen counter.

12 Q. So this is the -- the dining area and kitchen area
13 at the Bridle Path residence?

14 A. Yes.

15 Q. Okay. And are the doors in the photograph the
16 doors through which you entered?

17 A. Yes.

18 Q. Would you point to them, please?

19 A. (Witness indicates.)

20 Q. Okay. And I'll show you an outside view here.
21 This is Exhibit 2320; right? Do you recognize those -- that
22 area?

23 A. Yes.

24 Q. Okay. They are the doors through which you entered
25 the residence; correct?

1 A. Correct.

2 Q. And let me show you already admitted Exhibit 2321.
3 Do you recognize what's depicted in Exhibit 2321?

4 A. Yes.

5 Q. Okay. What is that?

6 A. Two barstools, the island, and the table, the
7 kitchen dining table, and I can see the stove and the
8 counters.

9 Q. Okay. And showing you this photograph, do you
10 recognize the area where you found the cell phone? Let me
11 bring it up to you closer.

12 A. Yeah. It's hard to...

13 Q. Look at the -- I direct your attention to the
14 kitchen counter there in that particular photograph,
15 Exhibit 23 -- I believe it was 2320.

16 A. Yes, I can see the phone.

17 Q. You can see the phone where it was located when you
18 seized it?

19 A. Correct.

20 Q. Okay. If I could have that exhibit back then.
21 Would you point to the area where the phone was located when
22 you seized it?

23 A. (Witness indicates.)

24 Q. And you could see the phone actually in the
25 photograph; is that correct?

1 A. Yes, sir.

2 Q. Okay. And after searching the dining and kitchen
3 area, where did you proceed to?

4 A. The -- there's a living area just down this
5 walkway, there's a couple of steps, and then there's a small
6 like childproof gate.

7 Q. Okay. And did you search in that area?

8 A. Yes, I did.

9 Q. Let me show you what's been marked as 2323 and
10 admitted into evidence. Did you find anything of
11 significance in the living area?

12 A. No, I did not.

13 Q. You didn't seize any evidence there?

14 A. No, I did not.

15 Q. Okay. And that's located over here; is that
16 correct?

17 A. Correct.

18 Q. Okay. And after searching in that particular area,
19 where did you go?

20 A. Down the hallway.

21 Q. And what room did you search or area did you search
22 in next?

23 A. The bedroom to my left as I walked down the
24 hallway.

25 Q. Here's the diagram of the house again; right?

1 A. Correct.

2 Q. Okay. And the bedroom that you searched next,
3 would you point to that, please.

4 A. Okay.

5 Q. On the diagram, that's indicated to be Katie's
6 room; is that correct?

7 A. Correct.

8 Q. And did you find anything of significance in that
9 room?

10 A. No, I did not.

11 Q. Would you describe the searching process for us,
12 please, how you searched.

13 A. The -- the areas -- the bedroom had a closet. I
14 looked through the closet area, the shelves, the top shelves,
15 under the bed, under the bedding. There was shelving in
16 there. Looked through the shelving, on top of the shelving.

17 Q. Okay. And I finally found the photograph of the
18 living room area. Let me show you Exhibit 2243. Is this the
19 childproof gate that you were talking about?

20 A. Yes, it is.

21 Q. But you didn't find anything of evidentiary value
22 in this particular area?

23 A. No, I did not.

24 Q. What were you looking for?

25 A. I was looking for anything that -- that would be

1 significant in our investigation regarding any type of
2 weapons or -- or blood or anything.

3 Q. Okay. And you didn't find anything of that nature
4 up in this area?

5 A. No, I did not.

6 Q. Okay. Did you find anything like that in
7 Katie's -- Katie's room?

8 A. No, I did not.

9 Q. Okay. After searching in Katie's room, did you go
10 to a different location?

11 A. Yes.

12 Q. And where did you go from Katie's room?

13 A. The laundry room.

14 Q. Okay. Let me show you what's been admitted into
15 evidence as Exhibit Number 2248. Do you recognize this
16 particular area?

17 A. Yes.

18 Q. And what is it?

19 A. It's the laundry room.

20 Q. Okay. And is this as it appeared on the date of
21 July the 3rd of the year 2008 when you were searching?

22 A. Yes.

23 Q. Did you -- what did you do to search the laundry
24 room? If you would describe that for us, please.

25 A. Went through the cabinets, the trash. There's a --

1 I believe a sink on the other side of the door. We went
2 through the -- there's a central -- there's a vacuum system.
3 Went through the filter. Opened that up. The lights weren't
4 working. I used a flashlight.

5 Q. Okay. So when you were searching in the laundry
6 room, the lights weren't working?

7 A. Correct.

8 Q. How many -- do you remember how many lights were in
9 the laundry room?

10 A. More than one.

11 Q. Did you come back at a later time?

12 A. Correct.

13 Q. When did you come back?

14 A. On the 6th.

15 Q. On July the 6th of the year 2008?

16 A. Correct.

17 Q. And did you have a search warrant on that
18 particular date?

19 A. Yes, we did.

20 Q. Okay. And did you do additional searching on that
21 date?

22 A. Correct.

23 Q. Of what areas?

24 A. The laundry room was one of them. The dining area,
25 it was just another walk-through area. I mean, just the -- a

1 walk-through trying to figure out the events leading up to
2 what had happened before the victim's death.

3 Q. Okay. Exhibit 797. We have a certified copy of
4 the search warrant that you executed on that date,
5 Exhibit 797. That's being copied right now. I'll show you
6 that in a couple of minutes.

7 But let me show you what's been marked as
8 Exhibit Number 388. Do you recognize what's depicted in
9 Exhibit Number 388?

10 A. Yes, a light bulb.

11 Q. Okay. Is there anything of significance about that
12 particular light bulb?

13 A. It's one of the light bulbs from the laundry room.

14 Q. And are you the person that seized that light bulb?

15 A. Correct.

16 Q. Is it the first light bulb so to speak that you
17 seized?

18 A. Correct.

19 MR. BUTNER: I would move for the admission of
20 Exhibit Number 388 at this time.

21 THE COURT: Mr. Sears? 388, any objection?

22 MR. SEARS: No, your Honor.

23 THE COURT: 388 is admitted.

24 BY MR. BUTNER:

25 Q. And you seized that from the laundry room; is that

1 correct?

2 A. Correct.

3 Q. How come you went back and seized that light bulb?

4 A. Like I said the first time I searched, the -- the
5 lights were not operational. I wanted to make sure that I
6 went back and could explain that.

7 Q. Okay. And then let me show you -- when you seized
8 that light bulb, were you wearing gloves?

9 A. Yes, I was.

10 Q. And what was going to be done with the light bulb
11 once you had seized it?

12 A. The light bulbs were going to be sent to the lab.

13 Q. For what purpose?

14 A. For DNA or fingerprints.

15 Q. And let me show you what's been marked as
16 Exhibit 390. Do you recognize what is depicted in that
17 exhibit?

18 A. Another light bulb.

19 Q. Okay. It's actually two -- two pages, that
20 particular exhibit. Is there anything of significance about
21 that light bulb that's depicted in that exhibit?

22 A. Looks like it has some dust on it.

23 Q. Is that the light bulb -- is that a light bulb that
24 you seized --

25 A. Correct.

1 Q. -- Detective Jaramillo?

2 A. Correct.

3 Q. And where did you seize that light bulb?

4 A. Out of the laundry room.

5 Q. Okay. On what date?

6 A. On the 6th.

7 Q. On July the 6th of the year 2008?

8 A. Correct.

9 Q. Okay. You seized it at the same time that you
10 seized the other light bulb; is that right?

11 A. Correct.

12 MR. BUTNER: Then I move for the admission of
13 Exhibit 390 at this time.

14 MR. SEARS: A question or two, your Honor?

15 THE COURT: Yes.

16

17 V O I R D I R E E X A M I N A T I O N

18 BY MR. SEARS:

19 Q. Detective, that dust is fingerprint powder, isn't
20 it?

21 A. I don't know if it's fingerprint powder. It looks
22 like there's some black dust on it.

23 Q. Do you have Exhibit 388 in front of you, the other
24 light bulb that you seized?

25 A. Is that the first one?

1 Q. Yes.

2 A. Correct.

3 Q. That has fingerprint powder on it as well; correct?

4 A. There's some black substance on there as well, yes.

5 Q. Did you in any way look for latent fingerprints on
6 either of these two light bulbs?

7 A. No, I did not.

8 Q. Do you know how to do that?

9 A. Yes, I do.

10 Q. You just collected them and let somebody else do
11 the dusting and testing?

12 A. Correct.

13 Q. And so you don't know which light bulbs had
14 fingerprints on them?

15 A. Correct.

16 Q. You don't know which light bulbs had DNA on them?

17 A. Correct.

18 Q. You don't know if fingerprints or DNA were found on
19 those light bulbs?

20 A. No, I do not.

21 MR. SEARS: No objection.

22 THE COURT: 390 is admitted.

23 (Next page, please.)

24

25

1 DIRECT EXAMINATION (Continued)

2 BY MR. BUTNER:

3 Q. And in the laundry room area, we're looking at a
4 photograph of that on the overhead, Exhibit Number 2248.
5 Where are these light bulbs located? Can you give us an
6 idea?

7 A. I believe there's a light just up at the center on
8 top of the ceiling, and I think there's another light over by
9 the sink behind the door.

10 Q. And you seized these light bulbs from those
11 particular light bulb receptacles?

12 A. Yes.

13 Q. When you seized them, they didn't have fingerprint
14 powder on them, did they?

15 A. No, they did not.

16 Q. Let me show you what's been admitted into evidence
17 as Exhibit Number 2249. Do you recognize what's depicted in
18 that particular photograph?

19 A. A light fixture.

20 Q. Is that one of the light fixtures from which you
21 seized a light bulb?

22 A. Correct.

23 Q. And where is the other one located?

24 A. If I'm not mistaken, it's behind the door here
25 above the sink.

1 Q. Did somebody draw your attention to the fact that
2 the lights weren't working in that room?

3 MR. SEARS: Objection.

4 THE COURT: Overruled.

5 BY MR. BUTNER:

6 Q. Did you understand my question?

7 A. Say it again.

8 Q. Did somebody draw your attention to the fact that
9 the lights weren't working in that room?

10 A. No. Myself. I turned them on.

11 Q. When you were first searching?

12 A. Correct.

13 Q. And you noticed they weren't working?

14 A. Correct.

15 Q. Did you have a search warrant to seize light bulbs
16 at that point in time?

17 A. On the 6th?

18 Q. No. On the date that you first noticed that --

19 A. No.

20 Q. -- the light bulbs were not working.

21 A. No, sir.

22 Q. Is that part of the reason that you got a second
23 search warrant?

24 A. Yes, sir.

25 Q. I'm going to put Exhibit 388 up on the overhead

1 just so the jury can see the light bulb that was seized. And
2 that black stuff on it, that's the fingerprint powder?

3 A. It's the black dust, yes.

4 Q. Or the black dust. Okay. You don't know for sure
5 what it is I take it?

6 A. Correct.

7 Q. Here's a close-up picture of Exhibit 390; right?

8 A. Yes, sir.

9 Q. Now, you went back on the 6th with this other
10 search warrant, and what else did you find or seize on that
11 particular day?

12 A. There was what appeared to be blood on a deadbolt
13 assembly on the door leading out to the garage area.

14 Q. Okay. And so what did you do in connection with
15 that deadbolt assembly?

16 A. The deadbolt assembly was collected.

17 Q. And who collected it?

18 A. I was the finder.

19 Q. Okay. You were the finder of that deadbolt
20 assembly?

21 A. Correct.

22 Q. In fact, did you bring that with you today?

23 A. Yes, it's here.

24 Q. Do you have it with you?

25 A. Not right here, no, I don't.

1 Q. Let me show you -- it's on the bench behind me,
2 isn't it?

3 A. Correct.

4 Q. I was looking back there.

5 A. Correct.

6 Q. That is Exhibit 396. Okay. Let me show you what's
7 been marked as Exhibit 396. Do you recognize that particular
8 document?

9 A. Yes.

10 Q. What is it?

11 A. It's the deadbolt assembly.

12 Q. It's a photograph of the deadbolt assembly that you
13 seized?

14 A. Correct.

15 Q. On what date?

16 A. On the 6th.

17 Q. On July 6th of 2008?

18 A. Correct.

19 Q. Okay. And on what door was it seized from?

20 A. It's the door leading out to the garage, detached
21 garage, the -- the north door.

22 Q. Okay. We have the diagram of the residence back up
23 on the overhead here. Using the laser pointer, can you point
24 to the door area from which -- the doorway from which that
25 particular deadbolt was seized?

1 A. (Witness indicates.)

2 Q. Okay. And that is the door leading out to the
3 garage; right?

4 A. Correct.

5 Q. And what was done with the deadbolt assembly once
6 it was seized?

7 A. It was placed into our evidence.

8 Q. And what was the purpose of seizing the deadbolt
9 assembly?

10 A. To determine what was on the deadbolt assembly.

11 MR. BUTNER: Okay. I would move for the
12 admission of Exhibit 396 at this time.

13 MR. SEARS: A question or two, your Honor.

14 THE COURT: Yes.

15

16 V O I R D I R E E X A M I N A T I O N

17 BY MR. SEARS:

18 Q. What's that tape or other object underneath the
19 lever in this picture? Do you know?

20 A. No, sir, I don't.

21 Q. Is that something that one of the DPS criminalists
22 put on there?

23 A. I don't know, sir.

24 Q. What's it covering?

25 A. I don't know, sir.

1 Q. Do you see the blood that you thought you saw when
2 this deadbolt was in place at the house on Bridle Path in
3 this picture?

4 A. No, sir, not from this photo.

5 Q. This is the portion of the deadbolt assembly that
6 would be inside the house; right?

7 A. Correct.

8 Q. Okay. Did you collect the part that was on the
9 outside, the corresponding part on the outside?

10 A. I'd have to look at the supplement to verify
11 whether the whole assembly was taken.

12 Q. It's not in this picture, is it?

13 A. No, it is not, sir.

14 Q. Okay. Are you the one that first saw what is
15 suspected to be blood on this deadbolt?

16 A. Yes, I was.

17 MR. SEARS: No objection.

18 THE COURT: 396 is admitted.

19

20 D I R E C T E X A M I N A T I O N (Continued)

21 BY MR. BUTNER:

22 Q. And did you also -- did you also swab these light
23 bulbs by the way?

24 A. No, I did not.

25 Q. You didn't. Somebody else swabbed them for

1 analysis?

2 A. Correct.

3 Q. You were the person that simply seized them; is
4 that right?

5 A. Correct.

6 Q. And similarly with the deadbolt assembly, are you
7 the person that swabbed the deadbolt assembly?

8 A. No, I did not.

9 Q. You just simply seized it for analysis?

10 A. Correct.

11 Q. Okay. The blood that you saw on the deadbolt
12 assembly -- we're looking at Exhibit -- I wish I had a better
13 memory for these numbers -- Exhibit 396 at this time on the
14 overhead. The blood that you noticed on this deadbolt
15 assembly, could you point to the area where it was located
16 when you saw it?

17 A. It would have to be the underside or the top side
18 of the assembly, the knob.

19 Q. When you say the underside or the top side, why do
20 you say the underside or the top side?

21 A. Because I can't tell from this picture which --
22 which area it would have been found.

23 Q. You can't tell the difference from the photograph
24 which is the top and which is the bottom?

25 A. Correct.

1 Q. Okay. But you do see that piece of tape that
2 Mr. Sears was talking to you about?

3 A. Yes.

4 Q. That may be in the area where you saw that blood;
5 is that correct, sir?

6 A. It's possible, yes.

7 Q. Let me show you what's been admitted into evidence
8 as Exhibit Number 2261. Is this a photograph of the door
9 from the outside where the deadbolt assembly was located?

10 A. Correct.

11 Q. Would you point to it for us, please.

12 A. (Witness indicates.)

13 Q. It's the one that's indented there; is that right?

14 A. Correct.

15 Q. Oh, here's a better view of it, Exhibit 2263
16 already admitted into evidence; right?

17 A. Yes, sir.

18 Q. Okay. And what other areas did you -- let's back
19 up a minute. You were searching on -- on July the 3rd of the
20 year 2008 at the -- at the Bridle Path residence; right?

21 A. Correct.

22 Q. You described the laundry room area of which you
23 searched?

24 A. Yes, sir.

25 Q. Okay. Did you search in the hallway at Bridle

1 Path?

2 A. Yes, I did.

3 Q. What areas in the hallway did you search?

4 A. I checked the walls. There's a -- just above the
5 area where the laundry room is located, there's a -- an area
6 where there was some luggage and some boxes. That area was
7 searched by myself.

8 Q. Okay. Let me show you what's admitted into
9 evidence as Exhibit 2242. Do you recognize what's depicted
10 in this particular photograph?

11 A. Yes, sir.

12 Q. What is it?

13 A. There is luggage there in the hallway, and there's
14 some plastic bins at the end of the hallway.

15 Q. This is the hallway at Bridle Path?

16 A. Yes, sir.

17 Q. Is this the way it appeared on July the 3rd of the
18 year 2008?

19 A. Yes, sir.

20 Q. Okay. Would you point -- and it's -- you can't see
21 the storage area that you were just talking about in this
22 photograph, can you?

23 A. No, I cannot.

24 Q. Would you kind of show us with the laser pointer
25 where the storage area was located?

1 A. It would be up in this area here.

2 Q. So it's up above this particular doorway?

3 A. Yes. It extended over this area here.

4 Q. And would you describe the dimensions of this area
5 that you searched up there approximately, of course.

6 A. I would say six feet by eight feet.

7 Q. So it's a very large area over that?

8 A. Correct.

9 Q. And what did you find up there?

10 A. Boxes and there were some other luggage up there.

11 Q. So it was a storage area?

12 A. Yes, sir.

13 Q. Did you find anything of evidentiary value up in
14 that area?

15 A. No, I did not.

16 Q. And was that -- were you just working your way
17 through the house searching?

18 A. Yes, I was.

19 Q. Now, this is the laundry room area I think; is that
20 right?

21 A. Yes, sir.

22 Q. This doorway to the laundry room?

23 A. Yes, sir.

24 Q. What is this room over here? Do you recall?

25 A. A bedroom.

1 Q. Okay. And did you search that particular room?

2 A. Yes, I can.

3 Q. That was Katie's bedroom?

4 A. Yes, it was.

5 Q. And then this particular doorway right down here,
6 the next doorway down the hallway, what is that?

7 A. The entry to a bathroom.

8 Q. Did you search the bathroom?

9 A. Yes, I did.

10 Q. I'm showing you the diagram. It's this room right
11 here, the hall bath area?

12 A. Yes.

13 Q. So you searched here, you searched here, you
14 searched the laundry room. And the storage area that you
15 searched, would you kind of outline it for us with the laser
16 pointer where it extended?

17 A. (Witness indicates.)

18 Q. So it's that area over the laundry room?

19 A. Yes.

20 Q. And then from -- from the hall bath area, where did
21 you go next?

22 A. I entered the master bedroom.

23 Q. Okay. And where did you search in the master
24 bedroom area?

25 A. I searched the closet, went through the clothing,

1 the shoes, the drawers. There was a vanity here. Jewelry.
2 And then the bathroom here, shower.

3 Q. All right. Did you find anything of evidentiary
4 value in there?

5 A. No, I did not.

6 Q. Did you see any blood or anything like that?

7 A. No, I did not.

8 Q. Okay. Did you search any other part of the master
9 bedroom?

10 A. Yes. I searched the -- underneath the bed.

11 Q. Okay. Describe for us if you will what it looked
12 like underneath Carol Kennedy's bed. That's in this room
13 right here; right?

14 A. Correct.

15 Q. Okay. If you can recall.

16 A. Yeah. I can't -- I can't give you exactly what was
17 underneath there, but I remember getting down on my hands and
18 knees looking underneath, pulling up the mattress, the
19 bedding, and the dresser drawers.

20 Q. Okay. So you looked in all of those areas?

21 A. Correct.

22 Q. And what were you looking for?

23 A. Looking for anything that would help us with our
24 investigation regarding the weapons or -- or documentation,
25 documents.

1 Q. Okay. So what time of day are you doing this
2 searching in Carol Kennedy's master bedroom approximately?

3 A. Mid-afternoon.

4 Q. All right. Was it 3:00 o'clock yet?

5 A. No.

6 Q. All right. And what did you have in mind in terms
7 of a murder weapon that you were searching for? Anything in
8 particular?

9 A. Anything that would cause any kind of blunt force
10 injuries.

11 Q. Okay. For example?

12 A. For example, poles, bats, tire iron, anything as
13 far as a -- that could be used as far as a weapon.

14 Q. Okay. And did you see any evidence of any of those
15 kinds of objects?

16 A. No, I did not.

17 Q. And you lifted up the bedding?

18 A. Correct.

19 Q. And the sheets and everything?

20 A. Yes, I did.

21 Q. Didn't find anything like that?

22 A. No, I did not.

23 Q. When you were searching in the kitchen, when you
24 first started out, do you recall searching the kitchen
25 counters?

1 A. Yes.

2 Q. Let me show you what's been admitted into evidence
3 as Exhibit 2247. Back that up just a little bit if I can get
4 it on there. Do you remember this area of the kitchen
5 counter at Carol Kennedy's house?

6 A. Yes, I do.

7 Q. Did you note anything of significance in this
8 particular area?

9 A. Well, there's -- looks like some vegetation from a
10 salad or some type of plant. There's a phone with its base
11 unit as well.

12 Q. Okay. Did somebody seize that, or do you know?

13 A. I don't know for sure. I'd have to look at the
14 supplements, but...

15 Q. You noted the presence of the salad in there?

16 A. Correct.

17 Q. Did you notice that when you were searching the
18 kitchen?

19 A. Yes.

20 Q. Did you have any information that made that salad
21 of any significance to you when you were doing the searching
22 at the time?

23 A. I remember the -- there was a mention of the victim
24 making something to eat.

25 Q. When was she doing that?

1 A. The day that she was found.

2 Q. Okay. Was that in connection with the phone call
3 with her mother?

4 A. I believe so, yes.

5 Q. You'd been provided that information at that time?

6 A. Correct.

7 MR. BUTNER: Okay. Judge, during the break we
8 were making a copy of Exhibit Number 797, which is a
9 certified copy of the search warrant and -- this hasn't been
10 marked yet; right? We need to mark this as a separate
11 exhibit number, and I would move for its admission at this
12 time. We redacted the regular information form affidavit
13 portion.

14 THE COURT: Mr. Sears?

15 MR. SEARS: This is from 797 for
16 identification; is that right, your Honor?

17 THE COURT: Yes.

18 MR. SEARS: When it has a new number, we have
19 no objection.

20 THE COURT: Okay. 2980. Okay. That new
21 number is 2980. And that will be admitted.

22 MR. BUTNER: Thank you very much.

23 BY MR. BUTNER:

24 Q. Let me show you what's been admitted into evidence
25 as Exhibit Number 2980, and if you would take a look at that,

1 Detective Jaramillo. Do you recognize that particular
2 document?

3 A. Yes, I do.

4 Q. And what is it, sir?

5 A. It's a search warrant return.

6 Q. Okay. It's the search warrant with the return; is
7 that right?

8 A. Correct.

9 Q. And did you execute that particular search warrant?

10 A. I assisted, yes.

11 Q. Okay. And when was that done?

12 A. On the 6th of July 2008.

13 Q. Of the year 2008? That's the one that you were --
14 the search warrant that you were executing when you were
15 seizing the light bulbs and the deadbolt assembly; is that
16 correct, sir?

17 A. Yes, sir.

18 Q. And does it have your search warrant supplement
19 information as part of the return?

20 A. Yes, it does.

21 Q. And does it note the presence of the light bulbs
22 and deadbolt assembly that you seized?

23 A. Yes, it does.

24 Q. Have you got it opened to that page?

25 A. Yes, I do.

1 Q. Thank you. I'll try to get this thing focused. If
2 you could point to the items that you seized that are
3 evidenced on the search warrant supplement and returned to
4 the court.

5 A. Item 800.

6 Q. Okay.

7 A. And 801.

8 Q. All right. Those are the two light bulbs from the
9 laundry room; right?

10 A. Correct.

11 Q. And then what about the deadbolt assembly?

12 A. Item 804.

13 Q. Okay. And then what else did you seize pursuant to
14 this search warrant?

15 A. Item 805.

16 Q. And what was that?

17 A. There was a swab.

18 Q. A swab from what, Detective Jaramillo?

19 A. The swab sample from a door handle of the north
20 hallway door to garage area.

21 Q. So did -- so did you swab that?

22 A. I did not, no.

23 Q. Who did?

24 A. I'd have to look at the -- the container it was
25 placed in.

1 Q. You were present --

2 A. I was present.

3 Q. -- when it was swabbed?

4 A. Correct.

5 Q. And that's why you noted it on the search warrant?

6 A. Correct.

7 Q. Okay. And were you present when other items --
8 other things were swabbed?

9 A. Yes, I was.

10 Q. What else?

11 A. Item 806.

12 Q. And what was that?

13 A. It was a swab sample from the doorjamb from the
14 north hallway door.

15 Q. Okay. And that's that same door leading out to the
16 garage?

17 A. Yes, it is.

18 Q. And why was that area swabbed?

19 A. To collect any possible blood evidence.

20 Q. Okay. And what else were you present for?

21 A. Item 807, the swab sample from doorjamb of north
22 hallway door, same door area.

23 Q. All right. And what else?

24 A. And item 808, swab sample from doorjamb of north
25 hallway door.

1 Q. Okay. So all of these -- these one, two, three,
2 four, these swabs, you were the finder for each of those
3 swabs; is that correct?

4 A. Yes, sir.

5 Q. And what was done with those swabs to your
6 knowledge?

7 A. They were placed into evidence.

8 Q. Okay. And what was the purpose for the swabs being
9 taken?

10 A. To determine the -- to determine the -- the DNA.

11 Q. All right.

12 A. If any was present.

13 Q. So they were -- they were swabbed for submission to
14 the lab; is that right?

15 A. Correct.

16 Q. And then showing you page 2 of 2 of the search
17 warrant supplement. Are there other items that you were the
18 finder on in this particular supplement?

19 A. Yes, there is.

20 Q. What are those?

21 A. Item 809, swab samples from the threshold of the
22 north hallway door, the same door area.

23 Q. Okay.

24 A. Item 810, swab sample from wall next to the north
25 hallway door.

1 Q. So this is blood evidence that you saw in that
2 area?

3 A. Possible blood evidence, yes.

4 Q. Possible blood evidence; is that correct, sir?

5 A. Yes, sir.

6 Q. And so you had it swabbed?

7 A. Correct.

8 Q. And did you go to any other areas?

9 A. There is a vehicle in the garage.

10 Q. What kind of vehicle was in the garage?

11 A. It's a black BMW.

12 Q. Okay. An X3?

13 A. X3, yes.

14 Q. Okay. And what was done in connection with that
15 vehicle?

16 A. The actual vehicle was removed from the residence
17 and taken to our evidence.

18 Q. Okay. And did you do some searching in connection
19 with that vehicle?

20 A. Yes.

21 Q. What did you do?

22 A. There was another search warrant obtained for the
23 processing of that vehicle.

24 Q. Okay. But on the date of July the 6th when you
25 were there, did you do some searching of that vehicle?

1 A. Yes.

2 Q. And did you note anything of significance?

3 A. What I thought possible was blood evidence on a
4 flashlight.

5 Q. Okay. And where was that flashlight located?

6 A. In the back seat of the BMW.

7 Q. And so what did you do in connection with that?

8 A. It was collected.

9 Q. You collected what?

10 A. The flashlight.

11 Q. Okay. And that was submitted for evidentiary
12 analysis?

13 A. Yes, it was.

14 Q. Okay. Did it come back with anything to your
15 knowledge?

16 A. To my knowledge, no.

17 Q. It wasn't actually blood?

18 A. To my knowledge, no.

19 Q. So you obtained another search warrant to search
20 the BMW; is that correct?

21 A. Correct.

22 MR. BUTNER: And, Judge, we have redacted the
23 affidavit regular information form from Exhibit 798, which is
24 a certified copy of that search warrant, and we'd like the
25 redacted copy marked at this time and I will be offering that

1 into evidence.

2 MR. SEARS: When it has a number, your Honor,
3 we have no objection.

4 THE COURT: The new number will be 2981. No
5 objection?

6 MR. SEARS: No objection, your Honor.

7 THE COURT: All right. 2981 is admitted.

8 MR. BUTNER: Thank you.

9 BY MR. BUTNER:

10 Q. So showing you what's been admitted into evidence
11 as Exhibit Number 2981, do you recognize that particular
12 document?

13 A. Yes.

14 Q. And what is that, sir?

15 A. It's the search warrant return and search warrant.

16 Q. And when did you obtain that search warrant?

17 A. July 7th.

18 Q. And that's the search warrant for what?

19 A. The black BMW.

20 Q. When you searched the black BMW, did you take
21 swabs?

22 A. Yes, there were swabs taken.

23 Q. And what was the purpose of taking these swabs?

24 A. To identify any DNA or blood evidence.

25 Q. Ultimately after taking -- do you know how many

1 swabs you took?

2 A. No, I do not.

3 Q. Is it -- does it indicate in the search warrant now
4 admitted into evidence?

5 A. Yes, there is.

6 Q. How many?

7 A. Let me count them.

8 Q. Okay.

9 A. Approximately 22.

10 Q. 22 different swabs for that car?

11 A. Well, there's two swabs -- there's two actual swabs
12 per each swab, so...

13 Q. So there were 11 different --

14 A. Correct.

15 Q. -- swabbings so to speak --

16 A. Correct.

17 Q. -- is that right?

18 A. Correct.

19 Q. Okay. And did anything of evidentiary value come
20 back from the lab to your knowledge?

21 A. To my knowledge, no.

22 MR. BUTNER: I think this is a good time,
23 Judge.

24 THE COURT: Okay. We'll do that. We'll take
25 the noon recess.

1 Ladies and gentlemen, please remember the
2 admonition. I'm going to ask that you please be back in the
3 jury room at 1:20, and we'll start as soon as we can after
4 that.

5 Detective, remember the rule of exclusion has
6 been invoked.

7 And we will be in recess. Thank you.

8 (Recess from 11:59 a.m. to 1:28 p.m.)

9 THE COURT: Good afternoon. Please be seated.
10 The record will show the presence of the defendant, counsel,
11 the jury. Detective Jaramillo is on the stand. He has
12 previously been sworn.

13 Mr. Butner.

14 MR. BUTNER: Thank you, Judge.

15 BY MR. BUTNER:

16 Q. Okay. Detective Jaramillo, let's back up just a
17 little bit to that -- that search warrant that was executed
18 on July 6 of 2008 back at the Bridle Path residence. And
19 we're talking about the -- we talked about the deadbolt lock
20 assembly; right?

21 A. Yes, sir.

22 Q. Remember that? And you were there and you were the
23 finder of that so to speak; right?

24 A. Yes, sir.

25 Q. And what does finder mean by the way?

1 A. I am the individual who found the possible blood
2 evidence on the assembly.

3 Q. And determined that it was of significance to
4 collect?

5 A. Yes.

6 Q. Okay. So you made that decision?

7 A. Yes.

8 Q. And then in that same search warrant, you went on
9 and got swabs or had swabs collected from the handles; right?

10 A. Correct.

11 Q. And from the doorjamb, and I'm looking at the
12 search warrant here, and a swab sample from the threshold and
13 also one from the wall next to the north hallway door?

14 A. Yes, sir.

15 Q. I'm going to show you what has been marked as
16 Exhibit Number 398. Okay. Exhibit 398, do you recognize
17 what's depicted in that particular photograph?

18 A. Yes, I do.

19 Q. What is that?

20 A. It's a carton for swabs that were collected.

21 Q. And who was the person that was there collecting
22 with you?

23 A. That would be Detective Sergeant Luis Huante.

24 Q. So you're the one that spotted these things and
25 were the finder?

1 A. Yes, sir.

2 Q. And then what was his job?

3 A. His job was to collect the items found.

4 Q. You weren't telling him what to do, were you?

5 A. Yes.

6 Q. Okay. I would -- and this is one that was
7 collected where?

8 A. It's item number 805.

9 Q. Right. And I'll show you the search warrant.

10 A. Item 805 is a swab sample from the door handle to
11 the north closet door to the garage area.

12 MR. BUTNER: I move for the admission of
13 Exhibit Number 398.

14 THE COURT: Mr. Sears, any objection to 398?

15 MR. SEARS: My understanding -- I have one
16 question of the detective.

17 THE COURT: Okay.

18

19 V O I R D I R E E X A M I N A T I O N

20 BY MR. SEARS:

21 Q. That's a cardboard box?

22 A. The cardboard box with swabs inside.

23 Q. Maybe; right? You can't see.

24 A. No, I can't see what's inside from here.

25 Q. Okay. So if we all squeeze our eyes real tight and

1 imagine there's a swab in there, that's what that's a picture
2 of?

3 A. Correct.

4 MR. SEARS: Okay.

5 THE COURT: 398 is admitted.

6

7 D I R E C T E X A M I N A T I O N (Continued)

8 BY MR. BUTNER:

9 Q. Okay. Let me then show you what's been marked as
10 Exhibit Number 402. Do you recognize what's depicted in that
11 particular exhibit?

12 A. Item number 809. It's a swab sample from the
13 threshold of north hallway door.

14 Q. Is that one of the other swabs that was collected
15 while you were the finder on that search warrant?

16 A. Yes, it was.

17 Q. Okay. And it was taken from where?

18 A. It was taken from the threshold of the north
19 hallway door.

20 MR. BUTNER: Okay. I'd move for the admission
21 of Exhibit 402 at this time.

22 THE COURT: Mr. Sears?

23 MR. SEARS: One question.

24 THE COURT: Okay.

25

1 V O I R D I R E E X A M I N A T I O N

2 BY MR. SEARS:

3 Q. Same idea, Detective. There may or may not be
4 swabs inside those boxes?

5 A. Correct.

6 MR. SEARS: No objection.

7 THE COURT: 402 is admitted.

8

9 D I R E C T E X A M I N A T I O N (Continued)

10 BY MR. BUTNER:

11 Q. And then let me show you what's been marked as
12 Exhibit 403. Do you recognize what's depicted in that
13 particular photograph?

14 A. It's the swab carton item number 80 -- 810, I'm
15 sorry.

16 Q. And, Detective Jaramillo, the swabs when they were
17 collected, what was done with the swabs?

18 A. When the swabs were collected by Sergeant Huante,
19 they were placed inside this carton.

20 Q. And then what was done with the carton?

21 A. The carton was placed into evidence.

22 Q. And is -- is that a picture of the carton as it was
23 placed into evidence?

24 A. Yes, it is.

25 Q. With the Sheriff's Office evidence designators

1 around it?

2 A. Yes, it is.

3 Q. And, in fact, is that the same for each of those
4 photographs that I've just shown you?

5 A. Yes, sir.

6 Q. They're all photographs of each of those swab
7 cartons while they're in evidence at the Yavapai County
8 Sheriff's Office; right?

9 A. Yes, sir.

10 Q. And to your understanding, they each contain a
11 swab -- or actually two swabs; right?

12 A. Yes, sir.

13 MR. BUTNER: And I'd move for the admission of
14 Exhibit 403 at this time.

15 THE COURT: Mr. Sears?

16 MR. SEARS: One question.

17 THE COURT: Okay.

18

19 V O I R D I R E E X A M I N A T I O N

20 BY MR. SEARS:

21 Q. Unless there are no swabs in there; right,
22 Detective?

23 A. At the time of this picture?

24 Q. Yes.

25 A. I wouldn't know that, sir, no.

1 MR. SEARS: No objection.

2 THE COURT: 403 is admitted.

3

4 D I R E C T E X A M I N A T I O N (Continued)

5 BY MR. BUTNER:

6 Q. Okay. And similarly with swab samples 806 and
7 seven and eight, those were all collected; right?

8 A. Yes, they were.

9 Q. And put in boxes just like the ones that we've been
10 looking at?

11 A. Yes, they were.

12 Q. And who was the collector on 806 and seven and
13 eight?

14 A. Detective Sergeant Luis Huante.

15 Q. And then what was done with those swabs in their
16 little cartons once they were collected?

17 A. They were placed in our evidence.

18 Q. And what was the purpose of collecting those swabs
19 and placing them in evidence at the Sheriff's Office?

20 A. To determine if, in fact, it is blood and DNA.

21 Q. So they were going to be sent to a lab someplace?

22 A. Yes, they were.

23 Q. To your knowledge, was that done?

24 A. To my knowledge, no.

25 Q. You don't know if it was done?

1 A. No, I don't.

2 Q. Okay. You didn't handle that part of the deal;
3 right?

4 A. No, sir, I didn't.

5 Q. Okay. All right. Now, let's -- let's talk about
6 the search, okay, of the residence that took place on July
7 the 3rd of the year 2008. You were one of the searchers
8 there; is that correct?

9 A. Yes, I was.

10 Q. And that's basically the first search warrant that
11 was executed in connection with this case; right?

12 A. Yes, sir.

13 Q. And I'm going to show you what's already admitted
14 into evidence, Exhibit 794 again. Do you remember looking at
15 this particular search warrant?

16 A. Yes, sir.

17 Q. Okay. And you described for us how you were
18 searching the residence and going from room to room; right?

19 A. Yes, I was.

20 Q. Okay. Let me show you what's admitted into
21 evidence as Exhibit Number 2250. The diagram -- those are
22 gone. Maybe they're over there. While he's doing that, I'll
23 show you Exhibit 2250. Do you recognize what's depicted in
24 that exhibit?

25 MR. BUTNER: Thank you, Phil.

1 THE WITNESS: Yes, sir.

2 BY MR. BUTNER:

3 Q. What is that?

4 A. It's the guesthouse.

5 Q. Okay. Were you involved in searching the
6 guesthouse?

7 A. Yes.

8 Q. Tell us what you did in terms of searching the
9 guesthouse.

10 A. Before the entry was made, there was photographs
11 taken, and after those were taken, I entered the -- the
12 guesthouse and began searching the inside.

13 Q. And what area of the guesthouse did you search?

14 A. The area just as you enter the guesthouse, the
15 kitchen area, the dining area, there's a living area.
16 There's cabinets, doors, drawers, the bed area, nightstands.

17 Q. Okay. Did you go through all of those -- did you
18 go through the cupboards?

19 A. Yes, I did.

20 Q. Did you go through the drawers?

21 A. Yes, I did.

22 Q. Looked in the nightstand?

23 A. Yes, I did.

24 Q. Describe for us how you searched the bed.

25 A. Underneath -- looked underneath the bed, got down.

1 Looked under the blankets, in between the mattress.

2 Q. So you pulled the bed apart?

3 A. Yes.

4 Q. And what were you looking for?

5 A. I was looking for any evidence that would assist us
6 in our investigation, whether it be weapons or blood
7 evidence.

8 Q. And the photographs were taken before you did this
9 searching?

10 A. Yes, they were.

11 Q. Let me show you what's admitted into evidence as
12 Exhibit 2844. Up there. Do you recognize what's depicted in
13 Exhibit 2844?

14 A. Yes, I do.

15 Q. What is that?

16 A. It's the bed in that guesthouse.

17 Q. Okay. Was there a bunch of stuff under the bed?

18 A. Yes.

19 Q. What were you looking for when you were searching?

20 A. I was looking for any blood evidence. I was
21 looking for any type of blunt force-type weapons.

22 Q. Did you have a -- a conception in your mind at that
23 point in time of what type of weapon you were looking for?

24 A. The only type of weapon that I was looking for just
25 based on looking at the body was some type of blunt force

1 object.

2 Q. Were you looking for any guns?

3 A. I'm sure we were, yes.

4 Q. Okay. Why were you looking for guns?

5 A. It's a firearm. It's something that could be used
6 in a homicide.

7 Q. Okay. And this particular homicide though, did you
8 have any indications that a firearm had somehow been used?

9 A. No, I did not.

10 Q. Did you find any operational guns in Mr. Knapp's
11 guesthouse?

12 A. No, I did not.

13 Q. And when you looked under the bed there, did you
14 get in and amongst all of that stuff?

15 A. Yes, I did.

16 Q. And did you find anything of significance in there?

17 A. No, I did not.

18 Q. And do you know -- do you recall approximately how
19 long you searched inside the living quarters of the
20 guesthouse?

21 A. Approximately 35, 40 minutes.

22 Q. Okay. Let me show you what's admitted into
23 evidence as Exhibit 2859. Do you recognize what's depicted
24 in that exhibit?

25 A. It's the inside of the guesthouse.

1 Q. Okay. Is this an accurate depiction of what it
2 looked like when you went there to search on July 3rd of
3 2008?

4 A. Yes, it is.

5 Q. And did you go through -- the light is not working
6 very well on this, but do you recognize this particular
7 object here?

8 A. It looks like some type of dresser.

9 Q. Did you go through the drawers of that dresser?

10 A. Yes.

11 Q. And this area over in here, did you search over in
12 this area over here?

13 A. Yes.

14 Q. Did you find anything of evidentiary value in any
15 of the areas that you searched in the guesthouse?

16 A. No, I did not.

17 Q. And did you search in the bathroom?

18 A. Yes, the bathroom was searched.

19 Q. Let me show you Exhibit Number 2848. Do you
20 recognize what's depicted in this particular exhibit?

21 A. Yes, I do.

22 Q. What is it?

23 A. It's the bathroom area inside that guesthouse.

24 Q. Mr. Knapp had a lot of stuff in there; right?

25 A. Yes, he did.

1 Q. Did you go through all of it?

2 A. Went through everything, yes.

3 Q. Okay. Now, in terms of searching, when did you
4 search the guesthouse relative to the rest of the house?

5 A. The guesthouse was one of the last things I was
6 involved in searching because we had to leave for the
7 autopsy.

8 Q. And was somebody else searching the garage area of
9 the guesthouse?

10 A. When I left, I don't know who was going to -- who
11 was tasked for doing that. I don't know.

12 Q. But you were tasked for doing the living quarters
13 area?

14 A. I was tasked to do the entire building, but didn't
15 get a chance to finish, no.

16 Q. Okay.

17 A. That day.

18 Q. Did you inform anybody that you didn't get a chance
19 to finish searching the rest of the guesthouse?

20 A. I don't remember, no.

21 Q. Now, let's go back to the main residence, okay.
22 You indicated that you did a search of the main residence.
23 Did you search the outside of the main residence?

24 A. Yes, I did.

25 Q. Let me show you what's admitted into evidence as

1 Exhibit 2251. Do you recognize what's depicted in that
2 particular exhibit?

3 A. That is the walkway leading up to the main entry of
4 the home.

5 Q. And this is already admitted into evidence. Do you
6 see this area right here, this object coming down?

7 A. It's -- looks like some drainage from the --

8 Q. Those things on the edge of the roof?

9 A. Yes.

10 Q. What do you call those things? Can you remember?
11 I'm going to take a chance and ask a leading question. Are
12 they gutters?

13 A. Yes, they're gutters.

14 Q. Okay.

15 A. I'm sorry.

16 Q. That's all right.

17 MR. SEARS: Move to strike.

18 THE COURT: Overruled.

19 MR. BUTNER: Thank you, your Honor.

20 BY MR. BUTNER:

21 Q. In regard to those gutters, did you do anything to
22 search those gutters, Detective Jaramillo?

23 A. Yes, I propped a ladder up along the residence all
24 the way around the house and went through the gutters.

25 Q. So you searched all of the gutters all the way

1 around the house?

2 A. Yes.

3 Q. And what were you looking for when you were doing
4 that?

5 A. Anything that would assist in our investigation,
6 anything as far as a blunt force object.

7 Q. I'm going to come back to this photograph, but let
8 me show you what's admitted into evidence as Exhibit
9 Number 2260. Do you recognize what's depicted in this
10 particular photograph?

11 A. There's a ladder on the ground, and there's some
12 retaining wall there.

13 Q. Okay. And do you recognize where this is located
14 at 7485 Bridle Path?

15 A. Yes, I do.

16 Q. Where was it located? And I'm talking about that
17 general scene.

18 A. Well, the -- that would be the north door we're
19 talking about where the assembly -- the doorknob assembly was
20 taken from. The garage is right -- just to my right.

21 Q. You can use that laser pointer, you bet.

22 A. The garage. And the ladder I used to get up on the
23 gutters is laying right here.

24 Q. Okay. So that is the actual ladder you used to
25 search the gutters?

1 A. Yes, it is.

2 Q. And what's behind that wall?

3 A. There is a -- a hot tub.

4 Q. And did you search in that area too?

5 A. Yes.

6 Q. So you searched the gutters along this area of the
7 residence?

8 A. Yes, I did.

9 Q. Did you search over at the garage?

10 A. Yes, I searched on top of the -- well, I propped
11 the ladder up against the wall and looked up on top of the
12 garage --

13 Q. Let me show you what's --

14 A. -- roof.

15 Q. -- admitted into evidence as Exhibit Number 2265.
16 Do you recognize what's depicted in that exhibit?

17 A. Yes. It's a drain up on top of the -- where the
18 garage roof is.

19 Q. Were you able to get up there with a ladder up on
20 the side of the garage and look over the roof of the garage?

21 A. Yes, I did.

22 Q. Did you do that all the way around the garage?

23 A. Yes, I did.

24 Q. And did you find anything of evidentiary value when
25 you did that?

1 A. No, I didn't.

2 Q. Okay. Thank you for your patience.

3 Okay. Let me show you what's admitted into
4 evidence as Exhibit 2252. We looked at this picture before;
5 right?

6 A. Yes, sir.

7 Q. And it shows -- it shows the side of the house from
8 which you originally entered; correct?

9 A. Yes, sir.

10 Q. Okay. And in regard to the yard area across here,
11 did you search this yard area?

12 A. Yes. I walked the yard, yes.

13 Q. And when you walked the yard, had you already been
14 in the house?

15 A. Yes.

16 Q. How were you attired so to speak when you were
17 walking the yard? What were you wearing?

18 A. I was wearing rubber gloves and booties.

19 Q. You still had booties on?

20 A. Yes, I did.

21 Q. So when you entered the residence, did you put
22 booties on?

23 A. Yes, I did.

24 Q. And did you wear rubber gloves the entire time you
25 were there?

1 A. Yes, I did.

2 Q. And even when you were outside searching, you were
3 wearing booties?

4 A. Yes, I was.

5 Q. And rubber gloves?

6 A. Correct.

7 Q. And so you searched that side of the yard area?

8 A. Yes, I did.

9 Q. Did you search any other sides of the yard area
10 around the Bridle Path residence?

11 A. Yes, I did.

12 Q. Which ones?

13 A. I searched the -- I searched the area where the hot
14 tub was. There was a -- an outbuilding, a barn, and there
15 was an old tree house. There was another -- there was a
16 garden area that was quartered off with a block wall.

17 Q. Let me show you what's admitted into evidence as
18 Exhibit Number 2259. Okay. What's depicted in this
19 particular exhibit?

20 A. Here is the hot tub, the retaining wall. There is
21 the barn area and over here is the garden area that's
22 surrounded with a block retaining wall.

23 Q. Okay. Would you tell us how you searched the area
24 where the hot tub is located?

25 A. I -- I lifted up the top cover to look underneath.

1 I looked on the sides where there's doors.

2 Q. So you looked inside of the bottom part of the hot
3 tub?

4 A. Yes, I did.

5 Q. Because there was access panels?

6 A. Yes.

7 Q. Okay. And what about the area around this hot tub?

8 A. Yes, surrounding the hot tub, I searched and I -- I
9 can't -- I'd have to look at the photos, but I think there's
10 a access for water if I remember right.

11 Q. And did you search all of those areas?

12 A. Yes, including there's a septic tube along -- it
13 looked like a septic tube along the side of the garage as
14 well. It's white with a cap on top.

15 Q. Okay. And you looked in there too?

16 A. Yes.

17 Q. And what were you looking for?

18 A. I was looking for any blood evidence or any blunt
19 force object.

20 Q. And during all of this time, were you still wearing
21 those booties?

22 A. Yes, I was.

23 Q. Let me show you what's been admitted into evidence
24 as 2255. Do you recognize what's depicted in this particular
25 area?

1 A. Yes. It's the back porch area. There's a -- some
2 doors right off towards the main master bedroom --

3 Q. Right.

4 A. -- to the left here.

5 Q. Okay.

6 A. And there's a window here which is the office area
7 where the victim was found.

8 Q. And in this area in the foreground, did you search
9 in this area?

10 A. Yes, I did. I walked through this area. I walked
11 on the cement slab, looked underneath the towels and the rugs
12 that were on the porch.

13 Q. Okay. And when you were searching in this area
14 here, were you looking for footprints also?

15 MR. SEARS: Leading.

16 THE COURT: Sustained.

17 BY MR. BUTNER:

18 Q. When you were searching in this area here, were you
19 looking at the ground?

20 A. Yes, I was.

21 Q. And what were you looking at the ground for?

22 A. Any kind of tracks at all.

23 Q. Did you find any?

24 A. No, I did not.

25 Q. And when you were searching the entire premises,

1 were you also looking at the ground?

2 A. Yes, I was.

3 Q. What were you looking for on the ground?

4 A. Tracks. I was looking for any blunt force objects,
5 any blood.

6 Q. Let me show you what's admitted into evidence as
7 Exhibit Number 2269. Do you recognize this particular area?

8 A. Yes, I do.

9 Q. Okay. Tell us what it is, please.

10 A. This is the barn area. It looked like a tack room
11 here. And there is a garden to the right over here with a
12 retaining wall around it.

13 Q. Did you go into the garden area over here?

14 A. Yes, I did.

15 Q. What were you looking for over there?

16 A. Foot tracks. I was looking for any blunt force
17 objects, any blood evidence.

18 Q. Did you find any of those things?

19 A. No, I did not.

20 Q. And this building, was it compartmentalized in any
21 way, this particular building?

22 A. I believe it was. I'd have to look at the
23 photographs, but I think it was quartered off and this is an
24 open area here, but these were, I believe, stalls over here
25 for horses and there's a fence.

1 Q. Is this a corral area back here?

2 A. Correct, yes.

3 Q. Okay. And did you go back into this area behind
4 the barn?

5 A. Yes, I walked in that area.

6 Q. Did you go into the barn from this area?

7 A. Yes, I did.

8 Q. And through here?

9 A. Yes, I did.

10 Q. And what were you looking for inside the barn?

11 A. I was looking for blood evidence and any kind of
12 weapon that would cause the injuries that I observed on the
13 victim.

14 Q. Were there any bicycles located in the barn?

15 A. No.

16 Q. Did you find any kinds of objects that could have
17 been used in this case to inflict the injuries to Carol
18 Kennedy?

19 A. No.

20 Q. Let me show you what's been admitted into evidence
21 as Exhibit 2268. Do you recognize what's depicted in that
22 particular photograph?

23 A. Yes, a tree house.

24 Q. Obviously, it's in a tree; right?

25 A. Yes, sir.

1 Q. Did you go up that tree?

2 A. I used the ladder to prop up against the tree house
3 and I got up there that way.

4 Q. So you used a ladder to get up there? You didn't
5 climb the tree?

6 A. Correct.

7 Q. And did you search the tree house?

8 A. Yes, I did.

9 Q. Did you find anything in the tree house?

10 A. No, I did not.

11 Q. And, again, you were searching for the usual things
12 that you've been describing for us; right?

13 A. Yes, sir.

14 Q. Did you find any of that kind of evidence at all in
15 the tree house?

16 A. No, I did not.

17 Q. Now, you indicated that you were searching overhead
18 areas earlier when you were searching the inside of the
19 house. Do you recall that?

20 A. Yes, I recall.

21 Q. You indicated that you also at one point in time
22 went into the office area in which the body of Carol Kennedy
23 was located?

24 A. Yes, I did.

25 Q. Was her body still there when you entered?

1 A. Yes, she was.

2 Q. And did you go into that office area for a specific
3 purpose?

4 A. Yes. Well, before and after. I went there before
5 the body was removed and after --

6 Q. Okay.

7 A. -- she was removed.

8 Q. What was your purpose in going in there before the
9 body was removed?

10 A. To get an idea as to what happened inside that
11 room, to look at the injuries on the body, to point out
12 anything of value that needed to be collected.

13 Q. And then did you do some searching in that room?

14 A. Yes.

15 Q. What area or areas did you search?

16 A. Well, the area that I had searched was a little
17 loft area up on top inside that office area.

18 Q. And how did you do that?

19 A. With a ladder.

20 Q. Let me show you what's been admitted into evidence
21 as Exhibit Number 2332. Do you recognize what's depicted in
22 that particular exhibit?

23 A. Yes.

24 Q. What is that?

25 A. It's a loft area. There's stuffed animals up

1 there. And the ladder that was -- that accesses that area
2 was against the threshold doorway to the office.

3 Q. How did you get up there?

4 A. A ladder.

5 Q. What ladder did you use?

6 A. The outside ladder.

7 Q. So that ladder that was out at the hot tub is what
8 you used to get up in there?

9 A. Correct, after the body was removed.

10 Q. And there's sort of a -- I don't know, there's some
11 sort of a panel or something over here in the photograph.
12 It's really hard to see on the overhead. Maybe if I zoomed
13 it in. Yeah, that's better. Okay. Do you see what I was
14 pointing to this area right over here in this photograph?

15 A. Yes, sir.

16 Q. What is that?

17 A. Some sort of -- it looked like a doorway, but, you
18 know, I wasn't able to open it, but it looks like if you look
19 down the hallway, there's just a -- kind of a screen or some
20 type of covering there that backs up to that.

21 Q. So it really isn't a doorway?

22 A. I couldn't open it, no.

23 Q. Did it have a handle or anything to open it?

24 A. I didn't see one, no.

25 Q. And so you weren't able to go through that what

1 looked like a doorway in the search?

2 A. Correct.

3 Q. Did you go around to the other side of the hallway
4 and satisfy yourself that there wasn't some storage area
5 right behind that panel?

6 A. Yes, sir.

7 Q. Was there?

8 A. I didn't find one, no.

9 Q. And did you find anything of evidentiary value up
10 in this area when you searched?

11 A. No, I did not.

12 Q. No blunt force objects or anything of that nature?

13 A. No, there wasn't.

14 Q. Was this basically your -- your task in this search
15 of this residence to search these kind of out-of-the-way
16 places?

17 A. I guess you can say that, yeah.

18 Q. So you were climbing up in areas and searching?

19 A. Yes.

20 Q. Were there any areas in the house that you did not
21 get into that were up in there so to speak that needed to be
22 searched?

23 A. Yes.

24 Q. Where?

25 A. There was an area underneath the house where you

1 could access it from the garage and it -- it was more of like
2 a crawlspace. Looked like maybe some water softener. I'm
3 not sure what it was underneath there, but there was a
4 crawlspace under the house that I searched.

5 Q. You searched there too?

6 A. Yes.

7 Q. How did you do that?

8 A. There's a door that accesses that inside the garage
9 and I crawled underneath there.

10 Q. So you crawled underneath the house?

11 A. Yes.

12 Q. And what were you looking for under there?

13 A. I was looking for blood. I was looking for any
14 object that would cause injury.

15 Q. Now, in connection with this investigation, did you
16 prepare any reports?

17 A. Yes, I did.

18 Q. How many reports did you prepare?

19 A. The approximate, I'm going to say four.

20 Q. And what basically was the subject matter of your
21 reports? By category, I guess.

22 A. Well, basically, you know, when I responded, what I
23 did, and what I assisted with in the investigation.

24 Q. And when you wrote your reports, did you write your
25 report about doing these searches in these various areas?

1 A. Not all of them, no, I did not.

2 Q. Was there any particular reason or reasons why you
3 didn't write about these areas that we've just been talking
4 about?

5 A. Well, one reason mistake by myself. I made a
6 mistake. I should have wrote a report on it.

7 Q. In retrospect you should have written a report
8 about this?

9 A. Correct. And also I didn't -- some of the
10 locations I searched, I didn't find anything of evidentiary
11 value.

12 Q. You were interviewed in connection with this case
13 by the defense team; is that correct?

14 A. Yes.

15 Q. Did you tell them about the areas that you
16 searched?

17 A. We discussed some areas, yes.

18 MR. BUTNER: If I could have just a moment,
19 Judge.

20 THE COURT: Yes.

21 MR. BUTNER: Thank you.

22 (Brief pause.)

23 MR. BUTNER: Okay. Judge, I'm -- I'm done
24 with my direct with Detective Jaramillo at this time except
25 that I would like leave to reopen a little bit later to get

1 some better photos with -- with better evidence depicted so
2 to speak, the swabs that we weren't able to get earlier. And
3 so with that caveat, I'm done questioning Detective Jaramillo
4 on direct at this time.

5 THE COURT: Mr. Sears.

6 MR. SEARS: Is the State suggesting that they
7 would complete their direct now, but might pick it up at some
8 later time?

9 THE COURT: I anticipate there would be a
10 request to reopen for the very limited reason probably
11 relating to the swabs and that involved your questions that
12 were asked.

13 MR. BUTNER: That's correct.

14 THE COURT: So I think for the record, you
15 need to make -- I probably would allow that.

16 MR. SEARS: I think I understand. That's
17 fine. If it's limited to something like that, that's fine.

18 THE COURT: Okay. Are you ready to proceed
19 with cross?

20 MR. SEARS: Your Honor, we need just a moment
21 to set up the laptop, but I can begin with Detective
22 Jaramillo while we're doing that.

23 (Brief pause.)

24 (Next page, please.)

25

C R O S S - E X A M I N A T I O N

BY MR. SEARS:

Q. Okay. Good afternoon, Detective.

A. Good afternoon.

Q. Okay. Let's talk a little bit about your background for just a minute here while we're setting up the laptop.

You've worked at the Sheriff's Department for about 14 years; right?

A. Yes, I have.

Q. And you were at the time of this murder a detective and had been a detective for a little over two years at that point; is that right?

A. Yes, sir.

Q. So would it be fair to say for the 10 years before that from 1996 to about 2006, you were a patrol deputy?

A. Yes, I was.

Q. Okay. And did you ever patrol on the Prescott side?

A. During field training, yes.

Q. Okay. You told us earlier in interviews in this case that you were not terribly familiar with the area, particularly the area around the Bridle Path scene and the trail system near there; is that right?

A. Correct. Yes, sir.

1 Q. And at the time of this murder, you were assigned
2 as a detective in the Verde Valley; is that right?

3 A. Yes, I was.

4 Q. And my understanding is that Sergeant Huante who
5 was not your sergeant; right?

6 A. Correct.

7 Q. Your sergeant was Dan Winslow at that time; right?

8 A. Correct.

9 Q. But Huante was able to reach you at about 12:30 in
10 the morning on July 3rd, 2008; is that right?

11 A. Yes, sir.

12 Q. You made the mistake of answering your own phone;
13 right?

14 A. Yes, sir.

15 Q. You're under oath. Okay.

16 And you were told to report over to the
17 Prescott office to assist in a suspicious death is the way
18 you described it; is that right?

19 A. Yes, sir.

20 Q. And when you got over here, by that time it was
21 about 1:45. Does that sound right?

22 A. Correct, sir.

23 Q. Okay. And you met with Huante in the Sheriff's
24 Office just a few blocks from this building; right?

25 A. Yes, I did.

1 Q. And Huante gave you a briefing of what they had at
2 that point that you were going to be working on; correct?

3 A. Yes, it was.

4 Q. And he told you the story basically that a woman
5 had been found beaten to death in her own home out in the
6 Williamson Valley area; is that right? That's how he
7 started?

8 A. The words beaten to death I'm not sure if those
9 were used, but I know that there was some injuries to her
10 body, yes.

11 Q. A woman was found dead in her home?

12 A. Yes.

13 Q. And the way the Sheriff's Office came to know about
14 this was that she apparently had been speaking on the phone
15 to her mother who lived in another state; correct?

16 A. Yes, sir.

17 Q. And that her mother reported to the police when she
18 called that her daughter had screamed and that the phone had
19 gone dead and she was concerned about her; correct?

20 A. Yes, sir.

21 Q. So this is the first information you're getting
22 from Huante about this case; right?

23 A. Yes, sir.

24 Q. And that eventually a welfare check was conducted
25 by a deputy on the Prescott side; right?

1 A. Yes, sir.

2 Q. And he discovered by looking through the window
3 that there was a body on the floor and it appeared to be a
4 suspicious circumstance; right?

5 A. Yes, sir.

6 Q. So he backed off, called for another round of
7 sergeants and deputies, and they responded; correct?

8 A. Yes, they did.

9 Q. By the time you got there -- by the time you got to
10 Prescott, that crime scene out at Bridle Path had been
11 swarming with police officers most of that evening to your
12 knowledge; right?

13 A. Yes, sir.

14 Q. And you knew pretty early on that you were going to
15 be asked to participate in the preparation of these search
16 warrants that we've seen now; right?

17 A. Yes, sir.

18 Q. And Theresa Kennedy who was a detective on the
19 Prescott side was actually sitting at the computer and she
20 was the person that was typing up the search warrant
21 documents; right?

22 A. Yes, sir.

23 Q. And you knew pretty early on that Doug Brown was
24 the case agent on this case; right?

25 A. Yes, sir.

1 Q. And you'd known Doug because he worked in the
2 Verde; right?

3 A. Yes, sir.

4 Q. Okay. And there were a number of you apparently
5 that were given bits and pieces of the search warrant to work
6 on to feed to Theresa Kennedy; right?

7 A. Yes, sir.

8 Q. And what you were asked to do was to get some data
9 about vehicle identification numbers and property
10 descriptions and things like that because that's all part of
11 what had to go in the search warrant; right?

12 A. Yes, sir.

13 Q. And you got that using your computer?

14 A. No, I did not.

15 Q. How did you get that information?

16 A. The information that was obtained out of Theresa
17 Kennedy's computer, we're in her office, and also through our
18 dispatch.

19 Q. But you took upon yourself the job of getting some
20 of this detailed information so that the search warrant
21 documents could be as complete as possible; right?

22 A. Yes.

23 Q. And typically when you prepare a search warrant if
24 you're going to search -- ask to search a vehicle, if you
25 know information about the vehicle, you want things like the

1 make and model and year of the vehicle; right?

2 A. Yes, sir.

3 Q. And then the vehicle identification number, that
4 very long letters and numbers stream that go with every motor
5 vehicle; right?

6 A. Yes, sir.

7 Q. Okay. And that information can be obtained through
8 dispatch?

9 A. Yes.

10 Q. And real estate information about ownership of
11 property and the description of the property, how did you get
12 that in this case?

13 A. I believe through the County website identifying
14 through the address, getting -- I can't remember the name of
15 the website, but it's through the County. Identifies the
16 property owner's name.

17 Q. And you became aware while you were doing this
18 work, which was over in the Sheriff's Office; right, that my
19 client Steve DeMocker and his youngest daughter and her
20 boyfriend had been in that same building being interviewed by
21 Sheriff's detectives; correct?

22 A. Yes.

23 Q. Okay. And you knew at some point that morning,
24 didn't you, that among the things that the police had
25 discovered out at the crime scene or nearby were some bicycle

1 tracks; correct?

2 A. Yes.

3 Q. Okay. When did you first learn that?

4 A. I'm going to have -- I'm going -- I'm not -- I
5 don't know the approximate time. I'm going to give you just
6 probably that morning.

7 Q. Okay. Certainly by the time you were conducting
8 the search that you told us so much about, you knew full well
9 that the police had found what they thought were important
10 bicycle tracks in the open land near the place where the body
11 was discovered; correct?

12 A. Yes.

13 Q. And you also knew that in his interview with Huante
14 and Brown, my client had said that that very night he had
15 been riding his mountain bike in that same general area;
16 correct?

17 A. Yes.

18 Q. Okay. So there was no doubt in your mind that the
19 police wanted to know whether or not those bicycle tracks
20 were connected to Mr. DeMocker's bicycle; right?

21 A. For me, I didn't know that Mr. DeMocker had a
22 bicycle at that time. That morning I did.

23 Q. Okay.

24 A. But when the scene was secured, no.

25 Q. Okay. Well, I'm talking about -- your work was all

1 done on July 3rd. Huante didn't even get you until just a
2 little after midnight on the 3rd; right?

3 A. Correct.

4 Q. Okay. So by the morning of the 3rd when you get to
5 Mr. DeMocker's house, you know there's a bicycle there;
6 right?

7 A. Correct. Yes.

8 Q. Because you can see it in the garage; right?

9 A. Yes.

10 Q. And you see the police take that bicycle and wrap
11 it in brown paper and take it away; right?

12 A. I didn't, no.

13 Q. You didn't see them there do that?

14 A. No.

15 Q. Okay. You saw the bicycle in the garage?

16 A. I saw the bicycle, yes.

17 Q. Okay. Now, by the time you're back out on the
18 Bridle Path scene and doing this search, were you aware that
19 police detectives were now looking at not only these bicycle
20 tracks, but some shoe prints that were in the vicinity and
21 those people would have been your Sergeant Dan Winslow and
22 Theresa Kennedy? You know Theresa; right?

23 A. Yes.

24 Q. Commander Mascher, you know him; right?

25 A. Yes.

1 Q. Okay. And evidence technician Dawn Miller? You
2 mentioned her name before; right?

3 A. Yes.

4 Q. Did you see them out at the Bridle Path scene on
5 July 3rd?

6 A. Yes, I did.

7 Q. Okay. And were you aware that they were over
8 working on some bicycle tracks and shoe prints --

9 A. Yes.

10 Q. -- while you were searching? Okay. So you knew
11 that there was considerable interest in -- in some bicycle
12 tracks for two reasons at that point. Mr. DeMocker said he
13 was riding a bicycle. You knew that; right?

14 A. Correct.

15 Q. And you knew that these tracks had been found;
16 right?

17 A. Yes.

18 Q. Now, when Mr. Butner was asking you questions here
19 about the places you searched, you said -- you told us how
20 careful you searched the inside of the house; right?

21 A. Yes.

22 Q. You told us you looked up in the gutters; right?

23 A. Yes.

24 Q. The word you couldn't quite remember, but the
25 gutters; right? You looked on top of the garage, which is a

1 flat roof; right?

2 A. Correct.

3 Q. And you looked all around the outside of the house?
4 You looked in the hot tub; right?

5 A. Correct.

6 Q. And you looked in the barn and the stable; right?

7 A. Yes.

8 Q. And you looked in that wall off the garden; right?

9 A. Yes.

10 Q. And then you told us about the guesthouse. And you
11 said you never found a bicycle; right?

12 A. Correct.

13 MR. SEARS: Okay. Rich, could we have --
14 okay, yeah, I think --

15 BY MR. SEARS:

16 Q. Let me show you 2839 for identification. Do you
17 recognize what's depicted in this photo, Detective?

18 A. Looks like the open area of the barn, and there's a
19 trailer.

20 Q. Okay. So that's the barn with a little carport at
21 one end that we've seen other pictures of that you searched;
22 right?

23 A. Correct.

24 Q. That's the way it looked on July 3, 2008; right?

25 A. Yes.

1 MR. SEARS: Okay. I would move Exhibit 2839.

2 MR. BUTNER: No objection.

3 THE COURT: 2839 is admitted.

4 BY MR. SEARS:

5 Q. And if we could go ahead and display that up on the
6 screen here for the jury. There we go. Okay. I'm going to
7 ask you one more time, Detective. You're sure you saw no
8 bicycles on this scene on July 3, 2008?

9 A. I don't recall, no.

10 Q. Okay. If we could zoom in on that image there and
11 then go left a little bit and zoom in a little bit more.
12 What's that, Detective?

13 A. It's a bike.

14 Q. You missed it?

15 A. Must have.

16 Q. It's just hanging there on July 3, 2008, and you
17 missed it?

18 A. Yes.

19 Q. What else did you miss? What else did you miss?

20 MR. BUTNER: Object to the form of the
21 question. It's asked and answered, Judge.

22 MR. SEARS: I heard no answer, your Honor.

23 MR. BUTNER: It's asked twice.

24 THE COURT: Sustained as to form.

25 (Next page, please.)

1 BY MR. SEARS:

2 Q. When you were at this location on July 3, this
3 location being the area of this barn, were any other police
4 officers searching that area with you?

5 A. That area, no.

6 Q. All yours?

7 A. I believe so, yeah.

8 Q. Okay. This particular picture -- Richard, if you
9 could zoom back out, please. That's fine. That's fine.

10 Okay. You were there in the daytime?

11 A. Yes.

12 Q. There was nothing blocking that bicycle from your
13 view if you had looked for it; correct?

14 A. Correct.

15 Q. Did any other police officer while you were there
16 in any way indicate to you that they had found or seized a
17 bicycle from the premises of Bridle Path on July 3, 2008?

18 A. No.

19 Q. When you went back on July 6th, 2008, did you go
20 to that area?

21 A. No.

22 Q. When you went back on July 8, 2008 did you go to
23 that area?

24 A. No.

25 Q. Was July 3, 2008 the only time that this area

1 depicted in this exhibit here was searched by the police to
2 your knowledge?

3 A. To my knowledge, yes.

4 Q. Okay. Whose bicycle is that?

5 A. I have no idea.

6 Q. So then you wouldn't know anything about what kind
7 of tires it had on it; right?

8 A. No.

9 Q. Okay. What about tools in that -- in that
10 structure? Did you take any photographs of the inside of
11 that building?

12 A. No, I did not.

13 Q. Okay. Did you even have a camera with you?

14 A. No, I did not.

15 Q. Did you see the post hole digger inside the door?

16 A. Yes, there were tools inside.

17 Q. Okay. Tools are a pretty good example of things
18 that could cause blunt force injury; right?

19 A. Correct.

20 Q. Did you take each tool and examine it?

21 A. I looked at them, yes.

22 Q. Did you photograph any of them?

23 A. No.

24 Q. Did you seize any of them?

25 A. No.

1 Q. Why not?

2 A. I didn't find any blood on them.

3 Q. Have you ever heard of the idea of blood being
4 wiped off by somebody after a crime?

5 A. Yes.

6 Q. So you're saying that the only reason that you
7 didn't seize the tools was that you didn't see any visible
8 blood?

9 A. No, that wasn't the only reason, no.

10 Q. What are the other reasons?

11 A. Well, looking at the body, the injury, it was more
12 of a -- what I saw was a smaller tubular-type injury on the
13 forearms.

14 Q. How about the massive crushing skull fractures to
15 the head? You couldn't see those, could you?

16 A. No. I saw some injuries to her head, yes.

17 Q. Okay. Those injuries could have been caused by
18 virtually every one of the tools and objects in that barn
19 that you didn't bother to take; right?

20 A. Could have been, yes.

21 Q. Let's see if I have a -- I made a few notes here of
22 the kinds of things you might find. Here we go. In
23 addition -- what's a post hole digger look like?

24 A. It has two -- two handles and it's got the blades
25 on the bottom.

1 Q. Okay. Metal blades that scoop; right, dig a hole?

2 A. Correct.

3 Q. What about the two shovels? Did you see them
4 inside there?

5 A. Yes. I saw shovels, yes.

6 Q. What about the pick?

7 A. Saw the pick, yes.

8 Q. Okay. What about the pipe clamps? Do you know
9 what a pipe clamp is?

10 A. Yes.

11 Q. Did you see some four-foot, long, heavy steel pipe
12 clamps inside there?

13 A. Yes.

14 Q. Okay. And now how about under the garage? Did you
15 see the steel hitch and ball for the trailer that you can see
16 there, that white flatbed trailer? Did you see that in the
17 garage?

18 A. Yes.

19 Q. Okay. And did you see the pieces of wood doweling,
20 the three- to four-foot long pieces of wood doweling that
21 were in the garage?

22 A. Yes.

23 Q. Okay. You didn't take any of those?

24 A. No.

25 Q. Any one of those in your opinion could have caused

1 the blunt force injuries to this poor lady's head; isn't that
2 right?

3 A. In my opinion?

4 Q. Yes.

5 A. No.

6 Q. Because they didn't have blood on them?

7 A. No, that's not -- no.

8 Q. What's the rest of your answer?

9 A. Just looking at the injuries themselves and
10 determining what could possibly have been used to cause those
11 injuries.

12 Q. Okay. You're not a forensic pathologist by
13 training, are you?

14 A. No.

15 Q. You're not a forensic anthropologist by training;
16 correct?

17 A. No.

18 Q. You have no medical training whatsoever, do you?

19 A. No.

20 Q. Okay. And you have no expertise in determining
21 what may or may not cause blunt force trauma to an
22 individual; right?

23 A. I've seen several victims, yes.

24 Q. And you were at the autopsy in this case; right?

25 A. Correct.

1 Q. And you saw at the autopsy the extent of the
2 terrible injuries to this lady's head; right?

3 A. Yes.

4 Q. And you would defer, wouldn't you, to the opinions
5 of experts about what may or may not have caused those
6 injuries; right?

7 A. Yes.

8 Q. Okay. But your job on July 3 was to find and
9 collect possible evidence; right?

10 A. Yes.

11 Q. You weren't the medical examiner determining what
12 may or may not have caused the injuries? That wasn't your
13 job that day; right?

14 A. Correct.

15 Q. So you walked by all of these implements in this
16 barn here and in the garage that could have inflicted blunt
17 force trauma because you decided that they were not the
18 weapons involved in this case; is that right?

19 A. Correct.

20 Q. Even though you didn't know what the weapon was
21 when you were looking, you didn't know what you were looking
22 for; isn't that right?

23 A. Correct.

24 Q. Now, let's go back if we could to the beginning
25 here. The first thing that you did was get this briefing

1 from Huante on the morning of July 3; right?

2 A. Yes.

3 Q. How long did that take?

4 A. A few minutes.

5 Q. Okay. And then you were assigned to be part of the
6 team writing the search warrant; right?

7 A. Yes.

8 Q. And you ran around and did that work until about
9 when?

10 A. Until the search warrant was signed.

11 Q. Okay. And you told Mr. Butner that the next thing
12 you did on the case was respond to Mr. DeMocker's office, his
13 stock brokerage office in west Prescott; correct?

14 A. It was one of the things, yes.

15 Q. Okay. There was a very important piece of work
16 that you did between the time you were finished helping with
17 the search warrant and the time you showed up at the UBS
18 office. Do you remember what it was?

19 A. The car ride that Detective Brown and I took out to
20 the location.

21 Q. Right. Mr. Butner didn't ask you any questions
22 about that today, did he?

23 A. No.

24 Q. Okay. What you did was this: Sometime before dawn
25 on Thursday, July 3rd, you and Doug Brown, who was the case

1 agent, got in a car at the Sheriff's Office here in Prescott;
2 right?

3 A. Yes.

4 Q. And you were heading out to Williamson Valley to do
5 what?

6 A. We were looking for bicycle tracks, vehicle tracks,
7 foot tracks.

8 Q. Okay. And the reason you were doing that was
9 because Brown and Huante had just finished interviewing
10 Mr. DeMocker who had told them what he was doing and where he
11 was; right?

12 A. Correct.

13 Q. Okay. And you knew as early as 4:30 that morning
14 that Mr. DeMocker was a suspect in this homicide? You knew
15 that, didn't you?

16 A. Yes.

17 Q. Okay. And so you and Brown set off on your own to
18 corroborate if you can the suspect's alibi where he was at
19 the time of the homicide. That's what you were doing, wasn't
20 it?

21 A. Yes.

22 Q. Okay. And the way you did that was to drive out to
23 where Brown said he thought Mr. DeMocker said he had been; is
24 that right?

25 A. Correct.

1 Q. Okay. Did you have a map with you?

2 A. I did not, no.

3 Q. Did you see Brown that morning with a map?

4 A. Yes.

5 Q. Okay. What kind of a map did he have?

6 A. It was the Yavapai County map.

7 Q. Okay. Did it have the trails on it?

8 A. No.

9 Q. It was just a map of streets?

10 A. Correct.

11 Q. It's the street index? If you went to Wal-Mart,
12 you could buy the Yavapai County street atlas? Is that what
13 you're talking about?

14 A. I believe so, yes.

15 Q. Okay. Now, Brown was one of the two people
16 conducting the interview of my client; right?

17 A. Yes.

18 Q. You weren't there for that interview, were you?

19 A. No.

20 Q. So Brown was telling you what he understood
21 Mr. DeMocker had said about where he was; right?

22 A. Yes.

23 Q. And this is an area that you're unfamiliar with;
24 right?

25 A. Correct.

1 Q. You've never been on these trails before; right?

2 A. No, I have not.

3 Q. But Brown said he had; right? Brown said that he
4 knew something about that area; right?

5 A. I'm not sure if he said that exactly, no.

6 Q. Okay. Okay. Tell me why someone who was actually
7 familiar with that area was not assigned to go with Brown.

8 A. I don't know.

9 Q. Wouldn't that have been a smart thing to do, take
10 somebody who actually knows where these places are?

11 A. Yes.

12 Q. You don't know any of these locations; right?
13 You'd never been there in your life; right?

14 A. Correct.

15 Q. Brown knows something about this area, but let's
16 make no mistake about it, Brown never said he was an expert
17 in this area, did he?

18 A. No. He didn't say he was an expert, no.

19 Q. He had to have a map with him. He had the
20 store-bought atlas of Yavapai County roads; right?

21 A. I don't know if it was the store bought, but it's
22 a -- it's a depiction of Yavapai County streets.

23 Q. Without the hiking trails on it; right?

24 A. Correct.

25 Q. Now, Brown told you that Mr. DeMocker said that he

1 had ridden a mountain bike on trails in a particular area.
2 That's what you understood; right?

3 A. Correct.

4 Q. Okay. Do you ride a mountain bike?

5 A. I have, yes.

6 Q. Okay. So you know that you can ride a mountain
7 bike off the pavement; right?

8 A. Yes.

9 Q. That's principally what they're designed for. They
10 have knobby tires. Sometimes they have shock absorbers so
11 that they can be ridden on dirt trails; right?

12 A. Yes.

13 Q. And you knew that Brown told you that Mr. DeMocker
14 said at least in part he had been riding on dirt trails;
15 right?

16 A. Yes.

17 Q. So there was a chance that if you found where
18 Mr. DeMocker says he was, you could actually see bicycle
19 tracks in the dirt? That's a possibility; right?

20 A. Possibility, yes.

21 Q. And you might see some shoe prints in the dirt;
22 right?

23 A. Correct.

24 Q. So it would be critically important, wouldn't it,
25 to know exactly where Mr. DeMocker said he'd been; right?

1 A. Yes.

2 Q. But all you seem to know was that Mr. DeMocker said
3 he rode on some trails off Love Lane; is that right?

4 A. I'm not sure of the exact street, but in that area,
5 yes.

6 Q. You wouldn't know Love Lane from Love Tron to Love
7 City from any other place; right? It's just a name to you;
8 right?

9 A. Correct.

10 Q. Okay. You'd never been on Love Lane in the
11 Williamson Valley area in your whole life, had you?

12 A. No, I hadn't.

13 Q. Okay. And you wouldn't have any idea then whether
14 there were any trails off Love Lane until you got there;
15 right?

16 A. Correct.

17 Q. Okay. So let's look if we could, Rich, at the map
18 first. What I'm going to show you here in a moment,
19 Detective, is a map so that we can get oriented again. It's
20 been some time since we've thought about where these places
21 are. And I recognize that this might not be -- may I have
22 your laser pointer for a moment. Thank you.

23 Okay. For the record, we're looking at
24 Exhibit 2341 in evidence. And you can see in yellow here
25 this would be north up and this is Williamson Valley Road,

1 which is the main arterial road in this area in yellow. Do
2 you recognize that?

3 A. Yes.

4 Q. And you came from town and you came out Williamson
5 Valley Road. Here is the intersection of Bridle Path. Down
6 at the end of Bridle Path here where it makes this 90-degree
7 turn to the left is the Bridle Path crime scene. Do you
8 recognize that area?

9 A. Yes.

10 Q. And here is Love Lane. This is Love Lane coming up
11 here. It's not written on this map, but Love Lane comes up.
12 On this map, Love Lane stops here, but part of Love Lane as
13 you come up from Williamson Valley Road is paved; isn't that
14 right?

15 A. Yes.

16 Q. And then at some point when you get up start
17 climbing up a pretty steep hill heading towards Granite
18 Mountain, which is over here; right?

19 A. Yes.

20 Q. It turns to dirt; right?

21 A. Yes.

22 Q. And it's a rough road. It's rocky and gravel and
23 hard-packed dirt; is that right?

24 A. Yes, it is.

25 Q. And what you all did was you drove up Love Lane and

1 you followed it until it dead-ended out in this area about
2 here; right?

3 A. I can't say for sure that's the area, but we
4 stopped at a dead end, yes.

5 Q. Okay. You stopped, looked around to see if you
6 could keep on going, and you realized that you had come to
7 the end of the road; right?

8 A. Yes.

9 Q. Turned around and went back?

10 A. Correct.

11 Q. Where else did you go?

12 A. We got out of our vehicle.

13 Q. Where?

14 A. Where we stopped.

15 Q. When you stopped at the end?

16 A. There's a parking -- looked like a parking area
17 when you first -- like I said, I'm not looking at the area
18 where the road is that we stopped. I just -- I know we
19 stopped, got out of the car, looked around for tire, foot,
20 and bicycle tracks, got back in, drove a little further, and
21 then did the same thing.

22 Q. Until you couldn't go any further; right?

23 A. Correct.

24 Q. And then turned around and back-tracked back out to
25 Williamson Valley Road; right?

1 A. Correct.

2 Q. And went all the way back to town to the Sheriff's
3 Office to get your next assignment; right?

4 A. Yes.

5 Q. That's all you did; right? That is it?

6 A. That night, yes.

7 Q. Okay. You didn't go up on Rainmaker where Steve
8 DeMocker said he'd been, did you?

9 A. I don't know.

10 Q. Okay. You didn't go on any of the other streets
11 between Rainmaker and Love Lane where Steve DeMocker had told
12 Brown and Huante that he had been, did you?

13 A. We drove around. Like I said, I don't know the
14 street names, no. We drove around.

15 Q. Just drove around aimlessly?

16 A. No. We got out of the vehicle.

17 Q. How many times?

18 A. A few times.

19 Q. Who did you talk to?

20 A. Regarding?

21 Q. There are houses all in here. Who did you talk to?

22 A. I didn't talk to anybody.

23 Q. Who did Brown talk to?

24 A. I don't know.

25 Q. Okay. What time did you get out here?

1 A. It was early morning.

2 Q. You told me it was 4:30. Does that sound right?

3 A. Approximately, yeah.

4 Q. If I told you that at 5:21 on July 3, 2008 the sun
5 was up, does that sound about right for that time of the
6 year?

7 A. I'm going to say yeah. Yes.

8 Q. Okay. So before 5:21, it's getting light, isn't
9 it? That's the way it works. It isn't pitch black and then
10 instantly daylight?

11 A. No. It's gradually getting --

12 Q. Getting light as the sun starts to come up; right?
13 So you could see where you were going eventually; right?

14 A. Eventually, yeah.

15 Q. From the time you turned off Williamson Valley Road
16 and Love Lane until the time you hit Williamson Valley Road
17 going back, how long were you out there looking?

18 A. 25, 30 minutes maybe.

19 Q. Okay. To your knowledge is that the only
20 investigation that was ever done looking for Mr. DeMocker's
21 bicycle tracks or shoe prints or his automobile tire
22 impressions on July 3? Is that the only investigation?

23 A. That I participated -- that I participated in, yes.

24 Q. Do you know of any other law enforcement -- and
25 you've followed this case; right? You've followed this case

1 for the last two years plus; right?

2 A. Off and on, yes, sir.

3 Q. You know that there was no other investigation done
4 that day of this area looking for Mr. DeMocker's tracks;
5 right? You know that?

6 A. I don't know.

7 Q. If I told you that you were it, would that be a
8 surprise?

9 A. No.

10 Q. So here we have over here at Bridle Path a woman
11 murdered in her house and over here we have the suspect hours
12 after the murder who gives an alibi; right? He says here's
13 where I was; right?

14 A. Yes.

15 Q. And the sum total, the total investigation done by
16 the Yavapai County Sheriff's Department, to wit, you and
17 Brown, consisted of driving up Love Lane, getting out a
18 couple times, and driving back and seeing nothing? That was
19 your investigation; is that right?

20 A. My part, yes.

21 Q. Okay. So this is a workday; right? Forest Service
22 opens at what, 7:00 o'clock in the morning? Does that sound
23 about right?

24 A. I would say yes.

25 Q. Okay. And law enforcement could probably get the

1 Forest Service to open a little early; right? Is that
2 possible?

3 A. It's possible.

4 Q. Okay. And you knew that this was Forest Service
5 land because when you got up to Love Lane, you could see
6 Granite Mountain; right?

7 A. Correct.

8 Q. And you could see all that open land. Even if you
9 didn't know, you assumed that that was some sort of
10 government land between where you were standing at Granite
11 Mountain; right?

12 A. No. I didn't assume that, no.

13 Q. Did you think it was a subdivision?

14 A. Vacant land.

15 Q. Okay. Brown knew that this was Forest Service land
16 because he had hiked on these trails before. He told you
17 that, didn't he?

18 A. I don't remember, no.

19 Q. You don't remember or no? Which?

20 A. I don't know if he has hiked those trails at all.

21 Q. You don't remember whether he told you that or not?

22 A. He may have, but I don't -- I don't remember him
23 telling me that he actually hiked those trails, no.

24 Q. Did you know that there was a Forest Service
25 maintained trailhead called the Williamson Valley Trailhead

1 just a few miles north of here? Did you know that?

2 A. At the time, no.

3 Q. Do you know that now?

4 A. Yes.

5 Q. Okay. You know that there's a whole trail system
6 that spiderwebs out from that trailhead; right?

7 A. Yes.

8 Q. Okay. And a number of those trails come where,
9 right behind this area here; right, Trail 347 being one of
10 them?

11 A. Correct.

12 Q. Okay. And Trail 309 comes right down through here
13 and over by this area here and right into the national
14 forest. That's a little trail called 309; is that right?

15 A. Not looking at a map and seeing the numbers, no, I
16 can't say yes or no.

17 Q. But you could have gone to the Forest Service, I
18 suppose, and gotten a map of the trail system; right?

19 A. Yes.

20 Q. That would have been really useful; right?

21 A. Correct.

22 Q. Because it would have been very important, wouldn't
23 it, to get out and try and find this trace evidence on the
24 ground before something happened to disturb it; right?

25 A. Correct.

1 Q. Because once it's gone, it's gone; right?

2 A. Yes.

3 Q. And once it rains, it's gone; right?

4 A. Correct.

5 Q. Once people trample on it, it's gone forever;
6 right?

7 A. Yes.

8 Q. And you know what's gone forever Mr. DeMocker's
9 alibi; right?

10 A. Correct.

11 Q. Now, police work and the work that you've done for
12 the last 14 years is designed to be fair and open; isn't that
13 right?

14 A. Yes.

15 Q. You wouldn't have conducted an investigation that
16 morning that was designed only, only to incriminate my
17 client? You wouldn't have done that in a million years,
18 would you?

19 A. No.

20 Q. Okay. You wanted to be open to everything; right?

21 A. Yes.

22 Q. So it would have been a little bit of extra work,
23 but you could have gotten a map and gone back out there to
24 see if you could figure out what Mr. DeMocker was talking
25 about; right?

1 A. Yes.

2 Q. But you didn't do that; right?

3 A. No, I did not.

4 Q. Because everybody was too excited about getting a
5 search warrant to go to my client's house; right? That's
6 what was going on; right?

7 A. I don't know if I was excited, but it was --

8 Q. A lot of activity?

9 A. It was busy.

10 Q. And there was no interest --

11 MR. BUTNER: Objection. If he would allow the
12 witness to complete his answer, your Honor.

13 THE COURT: Yes, if we could pause just a bit.

14 MR. SEARS: I'd be happy to, your Honor.

15 BY MR. SEARS:

16 Q. Would you like a little time to answer the last
17 question?

18 A. Repeat it.

19 MR. SEARS: May I have it read, please, your
20 Honor.

21 (The requested record was read.)

22 BY MR. SEARS:

23 Q. Would you like me to finish the question?

24 A. Yes.

25 Q. There was no interest in doing any more work on

1 Mr. DeMocker's alibi that morning, was there?

2 A. The interest I'm sure there was, yes.

3 Q. It never got done; right?

4 A. To my knowledge, no.

5 Q. What got done instead were search warrants for his
6 house; correct?

7 A. Yes.

8 Q. His office; right?

9 A. Yes.

10 Q. His car --

11 A. Yes.

12 Q. -- right? That's what got done; right?

13 A. Yes.

14 Q. Nobody ever went back ever to look for shoe prints
15 or tire prints or automobile tire tracks up here on
16 Rainmaker, did they?

17 A. To my knowledge, no.

18 Q. Let me show you what I've had marked as 2976. Have
19 you ever been to this place?

20 A. I don't think so, no.

21 Q. Do you see the hillside in the back of the picture
22 there?

23 A. Uh-huh.

24 Q. Do you see the trail or road that's going from
25 right to left or left to right across the top of the picture

1 there?

2 A. Yes.

3 Q. Do you see the real estate sign there?

4 A. I see a --

5 Q. Is that Love Lane? Is that the end of Love Lane
6 where you were?

7 A. I don't know.

8 Q. Okay. Do you see a trail in the foreground? It
9 goes off from the road --

10 A. Yeah, there is a trail there.

11 MR. BUTNER: Objection. He's asking the
12 witness to testify from the photograph, Judge, and it's my
13 understanding it's not in evidence yet.

14 THE COURT: Sustained.

15 BY MR. SEARS:

16 Q. Okay. You've never been to this place?

17 A. No, I don't -- I don't remember this place, no.

18 Q. Do you remember you and Brown turning down -- as
19 you were on Love Lane turning down what might have been a
20 little spur road or a little driveway heading towards some
21 houses? Do you remember doing that and getting out and
22 looking around?

23 A. I remember getting out and looking around, yes.

24 Q. Is that the place?

25 A. I can't tell you yes or no.

1 Q. Okay. Maybe Brown will recognize it.

2 MR. SEARS: Your Honor, this would be a good
3 time for me to take a break.

4 THE COURT: We can do that. Ladies and
5 gentlemen, we'll take the afternoon recess. Please remember
6 the admonition. And we will resume -- I'll ask you to please
7 be reassembled at five after 3:00, about 20 minutes.

8 (Recess from 2:42 p.m. to 3:07 p.m.)

9 THE COURT: Please be seated. Thank you.

10 The record will show the presence of the
11 defendant and counsel. The jury is present as well.
12 Detective Jaramillo is on the stand.

13 Mr. Sears.

14 BY MR. SEARS:

15 Q. Ready when you are.

16 A. Ready.

17 Q. Okay. Okay. So after you finished this -- this
18 attempt that you told us about to corroborate my client's
19 alibi, you and Brown reported back to the Prescott office on
20 Gurley Street; is that right?

21 A. Yes.

22 Q. And by that time, was it your understanding that
23 the judge had signed the search warrants that you had worked
24 on earlier that morning?

25 A. I'm not sure about the time.

1 Q. Okay. And was there some sort of a briefing at the
2 Sheriff's Office before the search warrant teams fanned out
3 in this case?

4 A. I don't remember if it was a briefing, no.

5 Q. That would be pretty standard for -- particularly
6 for a search as complicated as this one; right?

7 A. I would say yes.

8 Q. Because you were searching multiple locations at
9 the same time; right?

10 A. Yes.

11 Q. And there was some time pressure to get these
12 searches done because Mr. DeMocker was not in custody; right?

13 A. I don't know. I don't know if we were under any
14 time constraints, no. I don't know.

15 Q. Well, just as a matter of courtesy to a citizen,
16 you wouldn't want to keep him away from his house and his
17 office indefinitely while you took your time doing these
18 searches; right? You would want them to do them
19 expeditiously; right?

20 A. In a timely manner, yes.

21 Q. Okay. And so that was on your mind that morning;
22 right?

23 A. I don't know if it was on my mind, no.

24 Q. Okay. And so as I understand it, you and Huante
25 and Brown and Josh Nelson from the evidence section were sent

1 to do the UBS office search; right?

2 A. Correct.

3 Q. Okay. And how did you divide up responsibility for
4 that search when you got there? Who was going to do what?

5 A. I don't know if it was a division of tasks, but I
6 just took on the -- the office space with Mr. Farmer and some
7 of the common areas.

8 Q. Okay. So you got in the office. This guy Farmer
9 works there; right?

10 A. Correct.

11 Q. Okay. And he let you in?

12 A. He had a key.

13 Q. Okay. So that you didn't have to break the door
14 down; right?

15 A. Correct.

16 Q. And you were there a few minutes and then he
17 arrives and let's you in with a key; right?

18 A. Yes.

19 Q. And then you have him get out of the way while you
20 do the search; right?

21 A. Yes.

22 Q. And the office is not open for business while
23 you're doing the search I assume; right?

24 A. Correct.

25 Q. Very few stock brokerage firms would think it was

1 good customer relations to transact business while the
2 offices were being searched by the police; right?

3 A. Yes.

4 Q. Okay. And so it was the four of you? It was
5 Huante, Brown, you, and Josh Nelson; right?

6 A. Yes.

7 Q. Okay. Did anybody else join you while you were
8 doing the search?

9 A. I don't think so, no.

10 Q. Your report says you were there about an hour.
11 Does that sound right?

12 A. Yes.

13 Q. So you were there when a claw hammer was
14 discovered; right?

15 A. Yes.

16 Q. Okay. Let me show you 2983. Have you seen that
17 object before?

18 A. Yes.

19 Q. That's a claw hammer I just asked you about?

20 A. Yes.

21 Q. And you saw that where?

22 A. In I believe Mr. DeMocker's office.

23 Q. Okay. And somebody seized it and that's a
24 Sheriff's Department case number there; right, that 08 dash
25 number?

1 A. Yes. Item number 400.

2 Q. Okay. So that's a departmental report
3 number 08-029129; right?

4 A. Yes.

5 Q. And that was assigned early on to this case; right?

6 A. Correct.

7 Q. And so all the work in this case would always be
8 keyed off that number; right?

9 A. Off of the report number, yes.

10 Q. Yes. Okay. Let me go to the ELMO here.

11 MR. SEARS: I would move 2983.

12 MR. BUTNER: No objection.

13 THE COURT: 2983 is admitted.

14 BY MR. SEARS:

15 Q. Okay. That's a claw hammer; right?

16 A. Yes.

17 Q. Okay. Now, you told us earlier this afternoon that
18 you didn't take the tools that we talked about out of the
19 barn in part because they didn't have any blood on it; right?

20 A. Part of the reason, yes.

21 Q. Right. I said in part; right? That's true; right?

22 A. Uh-huh.

23 Q. Okay. There's no blood on this hammer, is there?

24 A. I didn't touch it, no.

25 Q. Okay. You didn't -- you didn't hear anyone say

1 that they observed what they thought was blood on this
2 hammer; right?

3 A. No.

4 Q. It was just taken; right?

5 A. Yes.

6 Q. Okay. Was it taken by you?

7 A. No.

8 Q. Who took it? Do you remember?

9 A. I would have to look at the search warrant
10 supplement. Item number 400, Charles 12.

11 Q. Who's that?

12 A. Who is Sergeant Luis Huante.

13 Q. Sergeant Huante took that; right?

14 A. Correct. He was the finder, yes.

15 Q. Okay. Were you nearby when this was taken?

16 A. I was documenting the location and the item.

17 Q. So it's your handwriting?

18 A. Correct.

19 Q. So you're the recorder? Is that your job on this
20 search?

21 A. Yes.

22 Q. So Huante -- somebody finds this. Is Huante the
23 finder?

24 A. Yes.

25 Q. Okay. And Huante gives it to the collector; is

1 that right?

2 A. Correct.

3 Q. And the collector was Nelson?

4 A. Yes.

5 Q. And Nelson gives it to you, and you write it down;
6 right?

7 A. Well, what happens is the finder identifies it, I
8 write it, and the collector is the one that actually collects
9 it and puts it into a bag.

10 Q. Okay. Did you see it?

11 A. Did I see it?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. You didn't see any blood on it, did you?

15 A. No.

16 Q. Did you seize anything at the UBS office? You were
17 just the recorder; right?

18 A. Correct.

19 Q. So you didn't seize any objects there; right?

20 A. No.

21 Q. So when you go from the UBS office and you go over
22 to Alpine Meadows; right?

23 A. Yes.

24 Q. And you were told that's where Mr. DeMocker lived;
25 right?

1 A. Yes.

2 Q. Okay. And were you pulled off the UBS search
3 before it was done to go to Alpine Meadows?

4 A. No.

5 Q. So by the time you left at about six or seven
6 minutes to 9:00, you were done at UBS?

7 A. Approximately, yes.

8 Q. Okay. Were you aware that Mr. DeMocker had told
9 Brown and Huante earlier that night that at one point, the
10 evening before, the 2nd of July, he had left his home and run
11 back to his office? Do you remember being told that?

12 A. I don't recall, no.

13 Q. Okay. And there was some question about whether
14 Mr. DeMocker had left his computer on possibly? Is that
15 anything you remember?

16 A. No, I don't recall that.

17 Q. Do you remember anybody making any effort to look
18 at Mr. DeMocker's computer to determine whether it was off or
19 on?

20 A. No, I don't.

21 Q. Was Mr. DeMocker's computer seized?

22 A. I would have to look at the search warrant
23 supplement. There is a Dell tower taken, yes.

24 Q. Any other computer peripherals like printers or
25 monitors, anything connected with that tower that you can

1 see?

2 A. The other item was a -- looks like a Verizon
3 Blackberry.

4 Q. Okay. What's the full description of the computer
5 tower? What's it say on there? That's your handwriting;
6 right?

7 A. Yes. It's a Dell computer tower PPTI plex.
8 There's a number and a service tag found on the floor
9 underneath the desk.

10 Q. Okay. So can you tell from your own notes there
11 whether the monitors associated with that computer were
12 seized?

13 A. Whether the monitor, no.

14 Q. They weren't taken?

15 A. I don't see it here, no.

16 Q. You think it would have been listed separately?

17 A. A different item number, yes.

18 Q. How many monitors were there in Mr. DeMocker's
19 office?

20 A. I don't know.

21 Q. Did you go into Mr. DeMocker's office?

22 A. Yes.

23 Q. You just don't remember?

24 A. Don't recall, no.

25 Q. Okay. How are computers seized by the Yavapai

1 County Sheriff's Office? How do you go about doing that?

2 A. I haven't seized a computer. Usually our -- our
3 evidence takes the computer.

4 Q. Okay. Do you see what they do with it?

5 A. No.

6 Q. Do they unplug it?

7 A. No.

8 Q. You don't know?

9 A. No.

10 Q. Do they take the batteries out?

11 A. I don't know.

12 Q. Okay. You don't know anything about that?

13 A. No.

14 Q. That's not something you've ever been trained to
15 do?

16 A. No.

17 Q. Okay. So you go over to Alpine Meadows. You might
18 as well if you're going to Alpine -- to look at Alpine
19 Meadows. Alpine Meadows supplement is five pages long.

20 A. Uh-huh.

21 Q. What did you take at Alpine Meadows? Well, first
22 let's back up. What was your job at Alpine Meadows?

23 A. I didn't take anything.

24 Q. Okay. What was your job at Alpine Meadows?

25 A. I didn't have a job there.

1 Q. What did you do there?

2 A. I arrived there. Photographs were taken of the
3 exterior and interior, a cursory search of the inside, and
4 then I left.

5 Q. Was there a full-blown search underway by the time
6 you left?

7 A. They were assembling, yes, the search, yes.

8 Q. So you did a run-through?

9 A. A walk-through, yes.

10 Q. Had the warrant been signed?

11 A. Yes.

12 Q. Okay. Who went with you?

13 A. I believe Detective Brown and Detective Sergeant
14 Luis Huante.

15 Q. Okay. So the three of you are done at UBS. You go
16 over to Mr. DeMocker's condo. Had you ever been in that
17 condominium community before that day?

18 A. No.

19 Q. Did you even know it was there?

20 A. No.

21 Q. This is all new territory to you?

22 A. Yes.

23 Q. Okay. And you get into the -- the -- how did you
24 get into the condominium? Do you remember?

25 A. I don't remember, no.

1 Q. Okay. And how long do you think you were there?

2 A. How long I was there?

3 Q. Yes.

4 A. 10, 15 minutes.

5 Q. Okay. Your report says that at about 9:09 you
6 entered the residence. And the UBS office and this condo
7 were very close to each other; right?

8 A. Yes.

9 Q. Just a few minutes drive; right?

10 A. Yes.

11 Q. And so you were there. And then by 10:00 o'clock,
12 you arrived at Bridle Path; right?

13 A. Yes.

14 Q. And it took some amount of time to drive from the
15 Alpine Meadows condo all the way back out to Bridle Path;
16 right?

17 A. A few minutes, yes.

18 Q. Okay. And did you go by yourself or with somebody
19 out to Bridle Path?

20 A. I drove myself.

21 Q. Okay. And so you get there -- and let me just talk
22 for a minute about your reports here. The first report that
23 you wrote was supplement number 10. There's supplements in
24 these cases by all the officers are numbered in order; right?

25 A. As they write them, no. Just as, you know, people

1 get into the computer.

2 Q. As they get into the system, they're given a
3 number?

4 A. Correct.

5 Q. So yours was the tenth in this case; right?

6 A. Yes.

7 Q. Okay. And there have been numbers way up over a
8 hundred by now; right?

9 A. I don't know.

10 Q. You wrote a supplement we'll talk about later that
11 was way up over a hundred that was given a number, the one
12 you wrote this year, okay. Does that sound about right?

13 A. Yes.

14 Q. That's a lot of reports for one case; right?

15 A. Yes.

16 Q. It was a big case?

17 A. Yes.

18 Q. Okay. Now, your report has a date on it of
19 July 17th, 2008. What does that date mean? Was that the
20 date it was written?

21 A. Yes.

22 Q. So you wrote a report about two weeks after the --
23 after the event and this was a report about all the work that
24 you had done from the time you got that call at 12:30 in the
25 morning from Huante until you were done with the case; right?

1 A. Yes.

2 Q. Okay. So the idea -- and did you write this from
3 notes that you made?

4 A. Yes.

5 Q. Okay. And what did you do with those notes when
6 you were done?

7 A. I shredded them.

8 Q. Is that typical?

9 A. Yes.

10 Q. Okay. And did somebody approve this report?

11 A. Yes.

12 Q. Who approved that report?

13 A. I believe my sergeant did, yes.

14 Q. Winslow?

15 A. Correct.

16 Q. Okay. And that would be on -- somewhere on the
17 report?

18 A. I'd have to look, yes.

19 Q. Would you? I'm talking about supplement 10, the
20 July 17th report.

21 A. Yeah. Yes, it's Detective Sergeant Dan Winslow.

22 Q. Okay. And that would be standard practice your
23 sergeant would approve all of your reports; right?

24 A. Yes.

25 Q. Unless he was on vacation or someplace else, but

1 typically Winslow would approve your reports in 2008; right?

2 A. Yes.

3 Q. Now, the first thing we've already talked about
4 today that's not in this report is this whole trip out to
5 Love Lane. There's not a mention of that in the report, is
6 there?

7 A. No.

8 Q. Just completely omitted it; right?

9 A. I just didn't write it, no.

10 Q. Okay. In a murder case as far as being
11 investigated; right, this was a homicide? By the time you
12 went out there that morning, this was being investigated as a
13 homicide; right?

14 A. Yes.

15 Q. It had passed the point of being a suspicious
16 death. Now you had a suspect; right?

17 A. Yes.

18 Q. Okay. So it's a homicide investigation, no doubt
19 about it; right?

20 A. Yes.

21 Q. It has a case agent and everything else that a
22 homicide investigation has in this county; right?

23 A. Yes.

24 Q. And you're beginning to get search warrants and
25 people are being assigned all kinds of responsibilities and

1 that's what the police do in a homicide investigation; right?

2 A. As far as?

3 Q. That's how homicide investigations begin, isn't it?

4 A. Yes. Initially, yes.

5 Q. Okay. And so one of the first jobs that you had in
6 this case -- one of the very first jobs you had was to help
7 the case agent Brown; right, see if he could corroborate the
8 alibi of the only suspect in the case at that time? That was
9 the job you were given right at the beginning of this
10 investigation; right?

11 A. There was something that we were looking into, yes.

12 Q. You were only going out there to see if you could
13 find evidence that would corroborate what Mr. DeMocker had
14 said; right?

15 A. Yes.

16 Q. And this investigation in this whole case could
17 have taken a very different turn if you had been able to find
18 bicycle tracks and shoe prints where Mr. DeMocker said he had
19 been; right?

20 A. Could have, yes.

21 Q. Okay. We don't know where it would have taken, but
22 it certainly would have been an important discovery; right?

23 A. Yes.

24 Q. But it never happened?

25 A. As far as I know, no.

1 Q. Okay. Now, you get to Bridle Path, okay, and it's
2 10:00 o'clock in the morning and the police have now been
3 there overnight. The police were there the night before.
4 You know that; right?

5 A. Yes.

6 Q. And when you get there, who's there? What police
7 officers are there when you get on scene?

8 A. As far as police officers, deputies, I don't
9 remember which deputies were there.

10 Q. How about detectives? Let's --

11 A. Detective Brown, Detective Willingham, I believe
12 Detective Sergeant Winslow, and Detective Sergeant Luis
13 Huante.

14 Q. What about Rhodes?

15 A. Yeah, I remember him being there, yes.

16 Q. What about Mascher?

17 A. Yes, he was there.

18 Q. Any other detectives?

19 A. I don't remember, no.

20 Q. Okay. So your report says that within just a
21 couple of minutes Nelson, the evidence tech, goes inside and
22 he's -- he enters the crime scene and that means come through
23 onto the property; right? It doesn't mean go into the
24 building; right?

25 A. Correct.

1 Q. You come through and now you're on the crime scene;
2 right, as soon as you set foot on the property; right?

3 A. Yes.

4 Q. You parked out on the street; right?

5 A. Yes.

6 Q. Okay. So Nelson's taking pictures of the outside
7 of the house. I think we've looked at a bunch of them;
8 right?

9 A. Yes.

10 Q. Okay. And what were you told to do?

11 A. I was preparing to actually go in and search the
12 residence.

13 Q. Okay. And were you going to search with anybody
14 else?

15 A. Initially, no.

16 Q. Okay. And your report says you put on these
17 booties. You described them as white plastic covers. What
18 do they look like?

19 A. They're just a cover, somewhat like a doctor or
20 nurse would use in a hospital.

21 Q. Okay. So you put those on outside the house?

22 A. Yes.

23 Q. I think you told us later when you were out looking
24 around the hot tub, you were still wearing those things on
25 your feet?

1 A. Yes.

2 Q. Well, what good is that? You're outdoors now.

3 What are you trying to do?

4 A. I don't know. I just maintained, you know, the --
5 the scene. I didn't want to track my footprints.

6 Q. Okay. When you wear those inside the crime scene,
7 it's because you don't want to bring something from the
8 outside, dirt or pebbles or grass from the outside, into an
9 indoor crime scene and contaminate it; right?

10 A. Correct.

11 Q. But once you go outdoors, you're walking around the
12 dirt and grass; right?

13 A. Yes.

14 Q. All you're doing then is just covering up the sole
15 of your shoe; is that right?

16 A. That's what the covers are for, yes.

17 Q. So looking around as there are other people out
18 there, who else is wearing booties besides you outdoors?

19 A. I don't remember who else was wearing them.

20 Q. Anybody?

21 A. No, I can't say.

22 Q. Just you?

23 A. I was wearing them, yes.

24 Q. Okay. Nobody else?

25 A. Outside the crime scene, I don't remember.

1 MR. BUTNER: Objection. Asked and answered.

2 THE COURT: He answered. I'll let the answer
3 stand.

4 MR. SEARS: Thank you.

5 BY MR. SEARS:

6 Q. Did you see Theresa Kennedy outside that morning?

7 A. At the residence, no.

8 Q. Okay. Did you see her anywhere that morning in the
9 general vicinity of Bridle Path?

10 A. I was at the residence and I didn't see her at the
11 residence, no.

12 Q. Did you see Mascher outdoors?

13 A. Outside the crime scene, yes.

14 Q. Was he wearing booties?

15 A. Outside the crime scene, no.

16 Q. How about Rhodes, was he wearing booties?

17 A. Like I said, outside the crime scene, no.

18 Q. Okay. When you say the crime scene, you mean the
19 house?

20 A. No. There was a tape that was strung up in the
21 front along the street.

22 Q. Okay. How about -- how about just around the
23 outside of the house, say between the house and the
24 guesthouse, did you see Mascher or Rhodes in that area that
25 day?

1 A. No.

2 Q. Okay. Did you see Dan Winslow that day at the
3 crime scene?

4 A. At the house, no.

5 Q. Okay. Where did you see him?

6 A. Say that again.

7 Q. Where did you see him?

8 A. That morning I didn't see him.

9 Q. Okay. You saw him later?

10 A. I don't remember.

11 Q. Okay.

12 A. No.

13 Q. Let's go back to Exhibit 631, the floor plan here,
14 and see if we can figure out how you did this. Okay. This
15 is a floor plan. I'm going to do -- just to be consistent
16 here. This is north up. It changes the writing here. Do
17 you recognize that in this diagram the street is out here to
18 the left of the screen? That's where the street would be;
19 correct?

20 A. Yes.

21 Q. Okay. And when you come onto the scene, you come
22 on the dirt driveway. Here's the front door to the house.
23 It's underneath this overhang; right?

24 A. Yes.

25 Q. And this is the door -- the French doors that you

1 said you went through into the dining room/kitchen area
2 first; right?

3 A. Yes.

4 Q. Okay. Here's the garage. The garage isn't exactly
5 attached to the house. You can't get into the garage without
6 going outside, can you?

7 A. Correct.

8 Q. All right. And here's the door where you took the
9 deadbolt off; right?

10 A. I didn't take it off, no.

11 Q. I'm sorry. I thought you said you took the
12 deadbolt assembly off that door.

13 A. It was collected, yes.

14 Q. You didn't actually remove it?

15 A. No, I didn't remove it.

16 Q. Okay. It's one screw it looks like. Did somebody
17 else do that?

18 A. They must have, yes.

19 Q. Okay. And then back here, the far end, this would
20 be on the north side. Here's the room where the body was
21 found. Eventually you looked in there; right?

22 A. Correct.

23 Q. So if I understand what you said you did, you came
24 through this door into the dining room/kitchen area and you
25 looked around in here, okay, and you looked at this counter

1 along this wall here. There is a sink in this area roughly
2 here; correct? Is that right?

3 A. Yes.

4 Q. Okay. There is a built-in range just to the left
5 of the sink as you're facing it; right?

6 A. Yes.

7 Q. And there's a refrigerator down here across from
8 this open pantry; correct?

9 A. Yes.

10 Q. Okay. And you told Mr. Butner early on that you
11 picked up a cell phone that was in plain view right on this
12 counter here; correct?

13 A. Correct.

14 Q. And we'll look at some of these other pictures.
15 Then you proceeded and you went towards the living room here
16 and you said there was this little child or pet fence along
17 this opening here; right?

18 A. Yes.

19 Q. Okay. Did you ever see any dogs around the house?

20 A. No.

21 Q. Okay. Did anybody tell you that there were dogs
22 there?

23 A. Someone mentioned there was a dog.

24 Q. Could they have been in a room and you just didn't
25 see them?

1 A. When I did my search, no, I didn't see.

2 Q. You went in every room?

3 A. What's that?

4 Q. You went in every room, and there were no dogs;
5 right?

6 A. Correct.

7 Q. So unless the dogs were staying in a room ahead of
8 you --

9 A. Correct.

10 Q. -- there weren't any dogs at the house; right?

11 Okay. And you went down -- and we'll look at
12 some pictures here. This is kind of a sunken living room.
13 You go down a little bit to get into this living room; right?

14 A. Yes.

15 Q. And there were a lot of things on the floor here.
16 There were shelves. There were other things stacked on the
17 floor, and we'll talk about those. That was the next place
18 you searched; right?

19 A. Yes.

20 Q. And then you went sort of going down this hall.
21 You went into this room here that you said appeared to be
22 somebody's bedroom; correct?

23 A. Yes.

24 Q. The bed was made. There was a backpack on the bed;
25 right?

1 A. I don't know if it was on the bed or the floor.

2 Q. Okay.

3 A. I can't remember.

4 Q. Did anybody tell you whose room they thought this
5 was?

6 A. Later.

7 Q. Okay. And whose room were you told it was?

8 A. Katie's.

9 Q. The older daughter?

10 A. Correct.

11 Q. And although she lived there, she was out of the
12 country that day? Is that your understanding?

13 A. Yes.

14 Q. Okay. She wasn't there and you never saw her that
15 day; right?

16 A. No.

17 Q. Okay. Then did you go across next and look in this
18 laundry room? Is that the next place you went?

19 A. Yes.

20 Q. Then you went down the hall. Did you go into this
21 bathroom here?

22 A. Yes.

23 Q. Okay. Is that the next place you went? As you
24 came out of the laundry room, did you then go into the
25 bathroom?

1 A. Yes.

2 Q. And then you said you searched the master bedroom,
3 which has a walk-in closet and a bath; right? This is all
4 associated with the master bedroom, this area here?

5 A. Yes.

6 Q. And then eventually did you go in the room where
7 the body was?

8 A. I stepped in.

9 Q. Okay. And the body was still there?

10 A. Correct.

11 Q. And, in fact, you actually helped put the body in
12 the body bag at about 12:49 that afternoon. That's what you
13 said in your report; right?

14 A. Yes.

15 Q. So the body was there for many hours before it was
16 moved after it was discovered; correct?

17 A. Yes.

18 Q. If I told you it was discovered before 9:00 o'clock
19 the night before, does that sound about right?

20 A. Yes.

21 Q. And it lay there on the floor until almost
22 1:00 o'clock the following afternoon; right?

23 A. Yes.

24 Q. Okay. And you walked around. Did you go over to
25 the body?

1 A. I looked at the body, yes.

2 Q. Okay. Was this ladder still across the doorway
3 when you were there?

4 A. Yes.

5 Q. You had to duck under the ladder to get near the
6 body?

7 A. No.

8 Q. How did you get into the room?

9 A. Stepped around it.

10 Q. Around the ladder?

11 A. Correct.

12 Q. You didn't have to go under it?

13 A. No.

14 Q. Oh, okay. And you got in this room. Were these
15 bookshelves here upright or knocked over when you saw them?

16 A. They were knocked over.

17 Q. Okay. And your report details that there was blood
18 everywhere in this area. It was a very bloody scene; right?

19 A. Yes.

20 Q. There was blood on the desk here; right?

21 A. Yes.

22 Q. Blood on things around the body; right?

23 A. Yes.

24 Q. You said in your report there was actually a white
25 plastic bottle, some kind of cleaning fluid that was near the

1 head of the victim; right?

2 A. Yes.

3 Q. That was never collected, was it?

4 A. To my knowledge, no.

5 Q. Okay. It had blood all over it; right?

6 A. Yes.

7 Q. How did that blood get there?

8 A. I don't know.

9 Q. Why would you not collect or ask somebody else to
10 collect a bloody object next to the body of a person that
11 appears to be a homicide victim? Why would you just leave
12 that there?

13 A. I don't have an answer.

14 Q. Okay.

15 A. I don't know.

16 Q. Isn't it common sense -- I mean, I'm not a police
17 officer, but it would seem to me that common sense would say
18 if there are objects very near a dead body that have blood on
19 them that if you're collecting things in that room, you'd
20 take those things; right?

21 A. Yes.

22 Q. You have lots of bags and lots of gloves and plenty
23 of time to take those things; right?

24 A. Yes.

25 Q. Because you said in your report -- this is in

1 parentheses. This says the victim's hair was tangled and
2 appeared to be moist. Is that what you saw?

3 A. Yes.

4 Q. So it still had probably blood in her hair; right?

5 A. It appeared, yes.

6 Q. Okay. And you said there was a white plastic
7 bottle of cleaning fluid just above the victim's head also
8 having visible blood smears. That's the same bottle we're
9 talking about; right?

10 A. Yes.

11 Q. Okay. It was actually some kind of pet stain or
12 pet odor removal. Does that sound about right?

13 A. Yes.

14 Q. Okay. Now, in addition to having blood on there,
15 the assumption would be that that was the victim's blood.
16 Was that your assumption?

17 A. It's possible, yes.

18 Q. Okay. This is a bloody scene and there are a lot
19 of possibilities at that time that would account for all this
20 blood besides it all being the victim's blood; right?

21 A. I don't know.

22 Q. Well, there could have been some kind of a violent
23 struggle in that room in which multiple people got hurt, not
24 just Carol Kennedy; right?

25 A. It's possible, yes.

1 Q. So blood when you see it around there, it may be
2 the victim's blood, but it may be somebody else's blood;
3 right?

4 A. Yes.

5 Q. But if you don't take the object with the blood on
6 it, you'll just never know whose blood that was; right?

7 A. Correct.

8 Q. In addition, blood is an excellent surface for the
9 preservation of latent fingerprints, isn't it?

10 A. One of them, yes.

11 Q. Okay. So you have a plastic bottle that's got
12 blood on it, and if somebody touched that bottle or picked
13 that bottle up, that person might leave their fingerprints on
14 the blood; right?

15 A. It's possible, yes.

16 Q. And it would be easier to see than on a clean
17 plastic bottle? It would be easier to see fingerprints in
18 blood than on unbloody plastic; right?

19 A. It's possible, yes.

20 Q. And there could be hair in that blood; right?

21 A. It's possible, yes.

22 Q. Did you see the piece of desk molding right next to
23 Carol's head?

24 A. Yes.

25 Q. Okay. That had hair on it. You could just sit

1 there and see that that had hair on it; right?

2 A. Yes.

3 Q. Okay. That was taken; right?

4 A. To my knowledge, yes.

5 Q. But the bottle wasn't?

6 A. No.

7 Q. Did you take anything -- when I say take anything,
8 were you involved in any way in the collection of any items
9 out of the room where Carol was found?

10 A. No.

11 Q. Okay. Had that work already been done?

12 A. No.

13 Q. Was it in the process of being done?

14 A. It was in the process, yes.

15 Q. And there was some DPS criminalists there. Did you
16 see them?

17 A. Yes.

18 Q. Did you direct them to do anything?

19 A. No. I don't think I directed them to do anything,
20 no.

21 Q. Did you point anything out to them?

22 A. I may have pointed out some of the blood spatter
23 and some of the things that we wanted to collect, yes.

24 Q. Where?

25 A. The wall maybe. Some of the areas where they had

1 blood.

2 Q. There was no blood on the ceiling in that room, was
3 there?

4 A. I didn't see any, no.

5 Q. Okay. There were tiny little bits of blood on the
6 walls in various parts; right?

7 A. Yes, there was.

8 Q. Not a great deal of blood though compared to the
9 blood, for example, on the carpet?

10 A. Correct.

11 Q. And there was blood on the desk and things on the
12 desk; right?

13 A. Yes.

14 Q. But not every object on the desk with blood on it
15 was seized; right?

16 A. To my knowledge, no.

17 Q. Okay. In fact, the desk itself was not taken into
18 evidence, was it?

19 A. No.

20 Q. Okay. And you said when I interviewed you in this
21 case that you were considering that maybe that desk you
22 called it a possible murder weapon. I'm not really sure what
23 you were talking about. But that desk might have had some
24 evidentiary value; right?

25 A. Yes.

1 Q. So common sense would be if it has evidence on it,
2 it has the victim's blood on it and she's lying next to it,
3 you would want to take that desk; right?

4 A. Yes.

5 Q. That's a pain to -- I mean, it's one thing to take
6 a plastic bottle. Taking a bloody desk is more work; right?

7 A. I wouldn't say more work. It's just -- didn't --
8 it didn't get collected, no.

9 Q. And there was a possibility apparently that some of
10 Carol's injuries might have been caused by that desk; right?

11 A. It's possible, yes.

12 Q. She might have hit the front against the desk or
13 struck the desk. You heard that idea being kicked around;
14 right?

15 A. Yes.

16 Q. Okay. The bookshelves weren't taken either; right?

17 A. No.

18 Q. Now, they're big and bulky also; right, but they
19 were in the room and they had blood on them; right?

20 A. Correct.

21 Q. Okay. You're not a blood spatter expert, are you?

22 A. No, I'm not.

23 Q. You know, just on-the-job training that police
24 officers and fairly new detectives have about looking for
25 blood spatter; right?

1 A. Yes.

2 Q. But you don't have any training or expertise in
3 interpreting blood spatter; is that right?

4 A. Correct.

5 Q. You never testified as a blood spatter expert in a
6 court; right?

7 A. No, I haven't.

8 Q. And you wouldn't expect to ever be called as a
9 blood spatter expert?

10 A. No.

11 Q. Maybe some day, but not today and not in 2008;
12 right?

13 A. Correct.

14 Q. So when you're done with the -- well, this sounds
15 like the last thing you did inside was help them put Carol in
16 the bag; right, at about 12:49; is that right?

17 A. It was one of the things, yes.

18 Q. Okay. Did you go outside right after that, or did
19 you do more work inside the house?

20 A. I don't recall what I did immediately afterwards.
21 I may have -- like I said, the ladder I used to check the
22 loft.

23 Q. That's the ladder you got from outside next to the
24 hot tub; right?

25 A. Correct.

1 Q. But you said you waited until they took Carol's
2 body away before you came in and did that; right?

3 A. Yes.

4 Q. And what about the other -- the searches that you
5 talked about though, you did that while the body was still in
6 the room? You were going down the hallway searching those
7 rooms; right?

8 A. Yes.

9 Q. Okay. What did you seize out of -- other than the
10 telephone, the cell phone out of the kitchen/dining room
11 area? Anything?

12 A. I don't think anything.

13 Q. How about out of the living room? Anything?

14 A. No.

15 Q. How about out of Katie's room? Anything?

16 A. I don't recall, no.

17 Q. How about the laundry room on that day, on the 3rd
18 of July? Anything?

19 A. On that day, no.

20 Q. How about out of a bathroom on the hall between --
21 and I'll tell you the room where Carol was found was at one
22 time Charlotte, the younger daughter's bedroom. What about
23 the bathroom between those two bedrooms, did you take
24 anything out of there?

25 A. No.

1 Q. Did you search the drains in there, in the
2 bathroom?

3 A. Be more specific.

4 Q. Well, we know, for example, eventually at the
5 Alpine Meadows house, they went so far as to take the hose
6 off the washing machine where Steve DeMocker had washed his
7 clothes. Did you look inside the drains in the sink where
8 the shower in the bathroom between the girls' bedrooms for
9 possible blood evidence?

10 A. I used my flashlight to look down the drain, yes.

11 Q. Did you see anything?

12 A. No.

13 Q. Did you see evidence in any rooms that somebody had
14 tried to clean up blood?

15 A. No.

16 Q. Okay. And then you went into the master bedroom;
17 is that right? Is that the next place you went?

18 A. That was one of the rooms, yes.

19 Q. Okay. Let me show you 2984. I'll ask you if
20 you've ever been to this place?

21 A. It's the master bedroom.

22 Q. Okay. This is the master bedroom, Carol's bedroom,
23 here in the corner of the house, and the bed in that
24 photograph is in this corner, isn't it? Is that where the
25 bed was?

1 A. Yes.

2 Q. Okay. And that picture shows a portion of that
3 bed?

4 A. Yes.

5 Q. And a table next to it with objects on it?

6 A. Yes, it does.

7 Q. And is that the way it looked on July 3, 2008 when
8 you were there?

9 A. As far as I recall, yes.

10 MR. SEARS: I would move 2984.

11 MR. BUTNER: No objection.

12 THE COURT: 2984 is admitted.

13 MR. SEARS: We have a better image of this one
14 here.

15 BY MR. SEARS:

16 Q. Okay. And if we can -- so just to orient you, this
17 is the corner of Carol's bed; right? This is a nightstand;
18 correct?

19 A. Yes.

20 Q. And the book is open. Was this book taken?

21 A. I don't know if it was taken or not.

22 Q. Do you know what it is?

23 A. No, I don't.

24 Q. Okay. And these are what? These little bottles
25 are what?

1 A. I don't know.

2 Q. Okay. There's a picture here. Rich, if you could
3 zoom in a bit on this picture. Okay. This is a picture in a
4 frame on the nightstand next to Carol's bed. Who is this
5 gentleman? Looks a little like you, but other than that.

6 A. I don't know.

7 Q. Okay. You don't know who this is?

8 A. No.

9 Q. Was this picture taken?

10 A. I don't know.

11 Q. You didn't take it?

12 A. No. I didn't, no.

13 Q. Did anybody else search Carol's bedroom?

14 A. I believe so, yes.

15 Q. Okay. Well, let's think about this for a minute.

16 This is a picture of a person. This is not Steve DeMocker.

17 Can we agree? Here's Mr. DeMocker here. Take as long as you
18 like.

19 A. I can't say for sure, no.

20 Q. Okay. Okay. Let's assume for a minute -- let's
21 just get crazy here and assume for a minute that's not Steve
22 DeMocker. Wouldn't it be important to know as you begin this
23 investigation who it is in a picture next to the bed where
24 the victim sleeps? Wouldn't that be a useful fact?

25 A. I'm sure it would, yes.

1 Q. Okay. And as a police detective, you're in the
2 business of collecting things that produce useful facts for
3 the investigation; right?

4 A. Yes.

5 Q. And this picture wasn't taken, was it?

6 A. I don't know.

7 Q. Okay. Can you pull back a little bit, Rich. Can
8 you go a little bit to the left there.

9 Okay. Do you know who the nice-looking lady
10 is in this photograph?

11 A. No, I do not.

12 Q. Okay. Do you know if this photograph was seized?

13 A. I don't know.

14 Q. How about this gentleman in this photograph here,
15 do you know who that is?

16 A. No.

17 Q. Okay. Was that photograph taken?

18 A. As far as I know, no.

19 Q. Okay. Let's go back then to the living room area.
20 Rich, if we could see Exhibit 2322, please.

21 Okay. You recognize that as the dining room
22 area that you've looked at already today taken from the
23 kitchen area; correct?

24 A. Yes.

25 Q. On the left is the door you came into the house

1 through; right?

2 A. Yes.

3 Q. Is that right? And this door right here, this is
4 the front door to the house; is that right?

5 A. I believe so, yes.

6 Q. You see this little half wall here. It separates
7 the little entryway here from the dining room table; is that
8 right?

9 A. Yes.

10 Q. Okay. Rich, if you could go over on the counter
11 here on the right and see how far right we can go. Take the
12 picture and see if we can go further right. Okay. And if
13 you could zoom down on that a little bit.

14 Okay. We see an object here.

15 Rich, if you could lighten that up a little
16 bit and go right a little bit.

17 Okay. It's a woman's purse; right?

18 A. Correct.

19 Q. Did you take that?

20 A. I didn't, no.

21 Q. Did you search it?

22 A. I didn't, no.

23 Q. Did you watch anybody search it?

24 A. No.

25 Q. Okay. Now, let me show you -- Rich, could we see

1 2323. Okay. And if you could pull left over in the frame a
2 little bit more and go down a little bit on that counter
3 there in this area right in here. Thanks. Right in there.

4 Okay. That looks like that same nice-looking
5 lady that was in the bedroom. Does that look like that to
6 you?

7 A. It appears so, yes, sir.

8 Q. Okay. Where's Carol's purse in this photograph?

9 A. I don't know.

10 Q. Okay. Can you go out a little bit to the left,
11 Rich. Pull back and see how much of the counter we can see.

12 Okay. This is the same kitchen counter;
13 right, where her purse was sitting in the previous picture?

14 A. It appears, yes.

15 Q. And there's no purse in this picture; right?

16 A. I don't see one, no.

17 Q. Now, let's move on -- let's look at 2321, please,

18 Rich. Okay. If you could brighten that up just a tad.

19 Okay. And maybe just center it a little bit.

20 Okay. So this is looking back the other way.
21 This is looking from the dining room table in the left corner
22 back towards the kitchen. Here's that same counter. Whoa,
23 there's the purse. All right. Okay. So it's in this
24 picture; right?

25 A. Yes, it is.

1 Q. And this white bottle is something or other; right?
2 And you can see the white bottle is there; right?

3 A. I see the white bottle, yes.

4 Q. And the phone that you took is right over here on
5 the kitchen counter; right?

6 A. Yes.

7 Q. Okay. So you were in here searching and you go for
8 the phone and you leave the purse?

9 A. Someone else may have picked it up.

10 Q. Well, wouldn't -- again, I'm not a police officer,
11 but wouldn't the victim's purse be a possible source of much
12 information about that person?

13 A. Yes.

14 Q. It could have all kinds of things in it. It could
15 have date planners, checkbooks, all kinds of information that
16 would be the starting point in this case; right?

17 A. Could be, yes.

18 Q. Okay. You took the phone and not the purse;
19 correct?

20 A. I didn't take the purse, no.

21 Q. Okay. Now, Rich, can you zoom in on the
22 refrigerator here. Okay. Can we get -- is it possible to
23 get a little tighter on this calendar. Okay. Okay. I think
24 maybe we'll back out a little bit. We lost resolution here.

25 Okay. You see there's an appointment-type

1 calendar on the refrigerator; right?

2 A. Yes.

3 Q. And you can see the word July; correct?

4 A. Yes.

5 Q. Okay. And it has writing all over it. It has
6 green ink and other things in writing; right?

7 A. Yes.

8 Q. You didn't take that either, did you?

9 A. I didn't, no.

10 Q. No. No police officer took that, did they?

11 A. I don't know.

12 Q. Okay. You didn't see it taken; right?

13 A. I didn't see it taken, no.

14 Q. Wouldn't it be terribly interesting at the minimum
15 to know what was on Carol's appointment calendar on her
16 refrigerator?

17 A. On the calendar, yes.

18 Q. Okay. Now, you took a calendar, a similar
19 calendar, a smaller one off the desk in the room where her
20 body was found; right?

21 A. I didn't, no.

22 Q. Okay. It had her blood on it. Did you ever see
23 that calendar?

24 A. I saw blood on a calendar, yes.

25 Q. Wouldn't it be useful among other things to compare

1 the entries on the calendar a person that keeps multiple
2 calendars? There's this calendar and the one that saw you in
3 the room where the body was; right?

4 A. Yes.

5 Q. Okay. So here is the first week of July
6 apparently; right? Okay. Up here. And then we see some
7 green, and then we see something marked out here. What event
8 was that? Did you even read this calendar?

9 A. I may have, but I don't recall what was on it, no.

10 Q. Did it say where she was going, what she was doing
11 that she would mark out that period in green if that's what
12 that is?

13 A. Is that a question?

14 Q. Yes.

15 A. Yes.

16 Q. Okay. But you don't know?

17 A. I don't recall, no.

18 Q. Okay. And if it wasn't taken, no one will know?

19 A. I don't know if it was taken, no.

20 Q. You never saw it again?

21 A. No.

22 Q. Okay. You took the phone, but you didn't take
23 that?

24 A. Correct.

25 Q. Okay. Search warrant certainly would have covered

1 this calendar; correct?

2 A. Would have, yes.

3 Q. And there was no question that you had legal
4 authority to take it if you had chosen to; right?

5 A. Correct.

6 Q. Okay. Now, let's look, Rich, at 2247, please.

7 Okay. We looked at this before. This is the
8 lattice picture; right? You see the lattice there on the
9 lower left-hand side; right?

10 A. Yes.

11 Q. This is right by the sink on that same counter
12 where the telephone was; right, the cell phone?

13 A. Correct.

14 Q. Okay. And now this is a -- a cordless phone in a
15 holder and it's plugged into the wall, so presumably that
16 would be some kind of a charger; is that right?

17 A. Yes.

18 Q. This phone was never taken, was it?

19 A. I don't know.

20 Q. You want to look at the search warrant return and
21 see if you see it?

22 A. I don't see it, no.

23 Q. Okay. And if I told you that we've never seen this
24 phone in evidence again, that would be consistent with the
25 search warrant return; right? It just doesn't appear to have

1 been seized; right?

2 A. According to the paperwork, no.

3 Q. Now, you knew when you were out at Bridle Path on
4 July 3, 2008 seizing that the story that you'd been given by
5 Huante early on was that Carol was talking to her mother on a
6 phone; right?

7 A. Yes.

8 Q. And the phone went dead after Carol screamed and
9 that was the last Carol's mother heard from her; right?

10 A. Yes.

11 Q. Okay. And you took the cell phone over here -- I'm
12 not going for you, Phil -- over here. This is where the cell
13 phone was. Okay. You took that; right?

14 A. Yes.

15 Q. And then there was a phone identical to this one, a
16 VTech cordless phone, found next to Carol's body. Did you
17 ever see that phone, the one next to her body?

18 A. Yes.

19 Q. And that was taken; right?

20 A. Yes.

21 Q. But not the phone in the kitchen; right?

22 A. Correct.

23 Q. Okay. And this phone was never inspected, for
24 example, to see if it was charged; correct?

25 A. I didn't.

1 Q. Okay. Do you know and did you know at the time
2 which phone Carol was talking on with her -- to her mother
3 when the phone went dead?

4 A. No, I do not.

5 Q. Okay. Now, let me show you what's been marked as
6 2982 for identification. Have you been to this place before?

7 A. It's the office inside the residence.

8 Q. That's the room where the body was found; right?

9 A. Yes.

10 Q. And that's looking away from the body towards a
11 window on the south wall; correct?

12 A. Correct.

13 Q. Okay. And in that picture you can also see this
14 loft that you've talked to Mr. Butner about; right?

15 A. Yes.

16 Q. Okay. Is this the way it looked on July 3, 2008?

17 A. Yes.

18 MR. SEARS: Okay. I would move 2982, your
19 Honor.

20 MR. BUTNER: No objection.

21 THE COURT: 2982 is admitted.

22 BY MR. SEARS:

23 Q. Let's display this one. Okay. So we see here this
24 is the room where Carol was found. Here is one of the
25 bookshelves that was knocked over and here's the other one up

1 against the wall to your right; correct?

2 A. Correct.

3 Q. Okay. And here is the alcove or the loft area
4 where you said you got up and searched; right?

5 A. Correct.

6 Q. And here's this window we're talking about. Can
7 you see an object -- let's zoom right in here, Rich. Okay.
8 Okay. Do you see this silver and black object on the
9 windowsill in 2982? Do you see that object?

10 A. Yes.

11 Q. Did you see that object on July 3?

12 A. Yes.

13 Q. Okay. That's the other base and charging unit
14 presumably for the phone found next to Carol's body; right?

15 A. I don't know for sure, no.

16 Q. I will tell you we've looked at thousands of
17 photographs in this case and we believe this is the only
18 photograph taken by the police that shows an empty charger.
19 This is a cord, power cord, going down to a plug that's just
20 off this picture. Can we go down just a little bit, Rich,
21 see if we can see a plug-in. Okay. We can't see it. Was
22 this taken?

23 A. I don't know.

24 Q. Okay. Well, let's -- let's think about this. We
25 saw the phone, the VTech phone, in its charger unit on the

1 kitchen counter next to the lettuce; right?

2 A. I saw that, yes.

3 Q. Okay. Then there was a VTech phone found in this
4 room where this charger is on the floor next to Carol; right?

5 A. Yes.

6 Q. And this would appear to be an empty charging unit
7 that looks identical to the one on the kitchen counter.

8 Would you like to see the kitchen counter photo again?

9 A. No.

10 Q. Is this the same kind of charging unit?

11 A. It appears to be, yes.

12 Q. If I'm making a false assumption here, you're the
13 detective, would it be reasonable to assume that the phone on
14 the floor belongs with this charging unit? Would that be a
15 reasonable assumption?

16 A. You could assume that, yes.

17 Q. Okay. Did you find any other charging units either
18 with or without a phone in the house other than the one in
19 the kitchen?

20 A. I didn't, no.

21 Q. Okay. So there's two that we know about, this one
22 and the one in the kitchen; right?

23 A. Correct.

24 Q. Now, let's think about -- let's go back to the
25 floor plan here and let's think about where these items are.

1 All right. So one unit we found -- this is Exhibit 631
2 again, the floor plan at Bridle Path. The first unit we
3 found the phone is somewhere along this wall on the kitchen
4 counter; right?

5 A. Somewhere in the vicinity, yes.

6 Q. The other one we found is at the other end of the
7 house down here on this windowsill right here. This is the
8 window and the charging unit sits right in this corner here;
9 right?

10 A. It appears, yes.

11 Q. And you said you didn't see another unit there;
12 right?

13 A. No, I did not.

14 Q. Okay. Now, do you know that one of the theories by
15 the time you come back several days later, there's an
16 operating theory inside the Sheriff's Office that Steve
17 DeMocker got into the house, went into the laundry room,
18 unscrewed those light bulbs and hid and waited for Carol
19 Kennedy. You know that that was the story that was
20 developing; right?

21 A. No.

22 Q. You never heard that?

23 A. No.

24 Q. That's news?

25 A. Correct.

1 Q. Really? Okay. Well, let's just assume. Let's
2 just assume that that's the story that the killer and let's
3 just assume that it was Steve DeMocker gets into this laundry
4 room and he unscrews the light bulb so he's invisible so he
5 can't be seen and he jumps out as Carol's walking down this
6 hallway and attacks her and kills her in this room, okay.
7 Are you with me on the story so far? And I didn't make this
8 up. Somebody else has gotten ahead of me on this one. Let's
9 just assume that.

10 If Carol was in the kitchen talking to her
11 mother, did you have the information -- by the time you were
12 done say on the 8th of July with this first part of the case,
13 did you have the information that Carol's mother said at one
14 point that she thought Carol was in the kitchen?

15 A. Yes.

16 Q. She could hear water running?

17 A. I don't know about water, but in the kitchen, yes.

18 Q. Okay. So there's a phone there, but the phone that
19 is found next to Carol's body here apparently comes from this
20 charger; right? Okay. That's the connection we're making;
21 right? There's the phone, there's the charger; right?

22 A. You're connecting that, not me.

23 Q. Do you have a better explanation?

24 A. I don't know.

25 Q. I'd be willing to hear it. Where did that phone

1 come from if not from that charger?

2 A. I don't know.

3 Q. And where is the phone that goes to that charger if
4 it's not the one that's next to Carol's body?

5 A. I don't know.

6 Q. Is that an unreasonable connection?

7 A. It's not unreasonable, no.

8 Q. Okay. Now, back to this idea. So if Carol was, in
9 fact, talking on the phone that was found next to her body at
10 that point, at some point when her mother's talking to her,
11 she has to get that phone perhaps from this charging unit;
12 right, to talk to her mother; right?

13 A. Correct.

14 Q. And if she's in the kitchen presumably she would go
15 up and down this hallway with the phone; right? If the
16 phone's here when she's found and she's talking in the
17 kitchen up here at some point, that phone has to go from the
18 kitchen down into this room; right?

19 A. I don't know.

20 Q. And you don't know where Carol is when the phone
21 call is placed between Carol and her mother? You don't know
22 whether she's in this room or someplace in the house; right?

23 A. No.

24 Q. Okay. So we just never know; right? We'll just
25 never know the answer?

1 A. I don't know.

2 Q. Okay. So you don't know how many times Carol may
3 have walked up and down this hallway past the person hiding
4 in the laundry room?

5 A. No.

6 Q. Okay. Now, could we see -- actually, I have --
7 let's see, I'll have to display this. Let's leave the ELMO
8 up, Rich. This one unfortunately we couldn't find digitally
9 so we'll have to make do. This is 2242 in evidence. This is
10 a very poor picture. But we see a couple things in this
11 picture.

12 Okay. We're looking down the hallway. The
13 body was found inside this room with the door to the left;
14 correct?

15 A. Correct.

16 Q. All right. The door opposite that is the door to
17 the master bedroom; right?

18 A. Yes.

19 Q. This is the door to the laundry room; right?
20 Correct?

21 A. Yes.

22 Q. What's this door to?

23 A. Bathroom.

24 Q. Okay. And Katie's room would be further up the
25 hall. This was taken somewhere across from Katie's room; is

1 that right?

2 A. It appears, yes.

3 Q. And these plastic tubs down here, you said you saw
4 blood spatter on those; right?

5 A. Correct.

6 Q. Okay. And what's this here again? What is this
7 object here?

8 A. It's luggage.

9 Q. Okay. What was in it?

10 A. I don't think anything was in it.

11 Q. Who searched it?

12 A. I don't know.

13 Q. It's not on the supplement, is it?

14 A. No, it isn't.

15 Q. Okay. So there's a suitcase that could be full;
16 right? Could be full of lots of stuff; right?

17 A. Could be.

18 Q. Could be empty; right?

19 A. Correct.

20 Q. Where did it come from?

21 A. I don't know.

22 Q. What's it doing in the hall?

23 A. I don't know.

24 Q. Does it have a luggage tag on it?

25 A. It appears.

1 Q. Whose suitcase was it?

2 A. I don't know.

3 Q. Okay. Did you see any other luggage in the house
4 other than the suitcase in the hall?

5 A. There was luggage in the loft above.

6 Q. Up -- the one in the hallway?

7 A. Correct.

8 Q. Okay. Did it match this suitcase?

9 A. I don't remember.

10 Q. Okay. Now, you brought a ladder in you said from
11 the outside to get up into this loft area; right?

12 A. Correct.

13 Q. Okay. Assuming that the people in the house didn't
14 keep the ladder to get into that loft outside, what other
15 ladder could have been used to get up into this loft area?

16 A. I don't know.

17 Q. How about the ladder that was across the doorway to
18 where the body was found? Could that have been used to get
19 up into this loft area?

20 A. I don't know if the height would allow it. I don't
21 know.

22 Q. Okay. There weren't any steps up to this loft
23 area; right?

24 A. No.

25 Q. Now, you got up in that loft area and looked

1 around; is that right?

2 A. Yes.

3 Q. Did you actually get off the ladder and crawl up
4 into that area?

5 A. Yes.

6 Q. Okay. So you got to the door there, the little
7 hatch door, that went in the back of this loft area into the
8 attic; right?

9 A. I don't recall it, no.

10 Q. There's a two-foot-by-two-foot door in this wall.
11 Let me see. Maybe we can go back to the floor plan again.
12 This picture is so poor. I'm going to put 631 up again.
13 Here -- here is this area. Okay. So here is looking down
14 the hall. Let's get crazy here. Here's north up. Okay.
15 Here's the hallway. Okay. And that loft area that you're
16 talking about runs the length of this hallway above this
17 wall; right?

18 A. Not the entire length, no.

19 Q. Okay. The area we were looking at -- the picture
20 that we just looked at a moment ago was standing about here
21 looking down at these tubs; right? That's the picture we
22 just looked at.

23 A. It appears, yes.

24 Q. Okay. And we couldn't see this loft here. How
25 high off the ground would you say it is standing on the floor

1 of this hallway, how high is it to reach that loft?

2 A. I couldn't reach it.

3 Q. Is it higher than a door?

4 A. Yes.

5 Q. Okay. Because it's above a door. A door is
6 somewhere between six feet eight inches and higher at the top
7 of the door?

8 A. Yes.

9 Q. That's pretty standard. So it's higher than that;
10 right?

11 A. Yes.

12 Q. Okay. Could you see up into that loft without
13 getting up on the ladder?

14 A. You could see items up there, but you couldn't
15 actually see --

16 Q. What was up there?

17 A. Luggage, boxes.

18 Q. Did you take them down and look through them?

19 A. I looked at them up there.

20 Q. Okay. You looked in each box?

21 A. Uh-huh. Yes.

22 Q. You looked in the luggage?

23 A. Yes.

24 Q. Unzipped all the luggage?

25 A. Yes.

1 Q. But you never opened this suitcase that was down
2 here in the hall?

3 A. I don't recall, no.

4 Q. Really? The easiest one to get to and the one
5 that's by itself down here and you never searched that?

6 A. I don't recall, no.

7 Q. Okay. And you didn't see -- when you were up here
8 in this loft area above there, you didn't see that
9 two-foot-by-two-foot door that gave you access into basically
10 the whole rest of the house?

11 A. No, I did not.

12 Q. Did you know the house had an attic?

13 A. No, I did not.

14 Q. Did you know that's the only way into the attic?

15 A. No, I did not.

16 Q. Did you take any photographs when you were up
17 there?

18 A. No, I didn't.

19 Q. Now, you did tell Mr. Butner though that you
20 thought you saw something like a door when you were in
21 Charlotte's room, the room where the body was; correct?

22 A. Yes.

23 Q. Okay. Up in the loft. Can we find that picture,
24 Rich. That is 2332. Let's put that up. Okay.

25 Now, to orient again, this is the window.

1 Down in the corner was where the phone charger was. You can
2 see these little hangers here. That's where the ladder
3 attached. The ladder was over the door. Clearly was meant
4 to go right in here; right?

5 A. It appears, yes.

6 Q. Okay. And this -- this looked like an area --
7 these are children's items here; right?

8 A. Toys, yes.

9 Q. Toys up here. Stuffed animals; correct?

10 A. Yes.

11 Q. Now, this is the thing that you thought might be a
12 door; right?

13 A. I didn't think it was a door. I just -- it looked
14 like a panel or something, yes.

15 Q. Okay. Can you zoom in on that, Rich.

16 See what those are? Those are glass bricks,
17 aren't they?

18 A. I can't tell.

19 Q. Okay. You want to step down and take another look
20 at them?

21 A. No.

22 Q. Maybe it's easier to see from out here.

23 A. I can't tell what they are.

24 Q. You still can't tell what they are? If I told you
25 those were glass bricks, does that seem farfetched to you?

1 Do you see the grout patterns here?

2 A. I see patterns, yes.

3 Q. Okay. Do you see anything that looks like a door
4 handle or hinges on this?

5 A. No.

6 Q. What's on the other side of this wall?

7 A. I don't know.

8 Q. Okay. You didn't go to look to see if there was a
9 corresponding glass brick space on the other side of this
10 wall?

11 A. No.

12 Q. Okay. But you tried to get through this?

13 A. I pressed on it, yes. Pushed on it, yes.

14 Q. Okay. All right. So that's pretty much the search
15 you did of the inside of the house; is that right?

16 A. Yes.

17 Q. Okay. Now you go outside. Let's talk about the
18 guesthouse here. Let's start over at the guesthouse. And
19 you didn't say anything in your report of July 17th, 2008
20 about searching the guesthouse, did you?

21 A. No, I didn't.

22 Q. What you said instead was that you conducted a
23 search of the exterior of the property which included the
24 barn/storage outbuildings, tree house, and fenced-in garden
25 area. I did not find anything of value. You did not mean by

1 that to include the guesthouse, did you?

2 A. No.

3 Q. Okay. So let me understand the -- the -- the
4 sequence of events when you're done and you're outside. Did
5 you search the barn and the fenced garden before you went
6 over to the guesthouse?

7 A. Yes.

8 Q. Okay. Was the guesthouse the last place you
9 searched before you left the scene?

10 A. Yes.

11 Q. And you were in a hurry to leave the scene because
12 you wanted to attend the autopsy; right?

13 A. No.

14 Q. No?

15 A. I wasn't in a hurry, no.

16 Q. Okay. You said that you cut your search short
17 because the autopsy was beginning; right?

18 A. Correct.

19 Q. Okay. Perhaps I overstated it. You simply wanted
20 to leave to go to the autopsy even if you were not done with
21 that search; correct?

22 A. Correct.

23 Q. Did you think other people were going to finish the
24 search?

25 A. Yes, I thought so.

1 Q. Okay. Who did you tell about the search that you
2 did perform?

3 A. I don't think I told anybody.

4 Q. Okay. Was there anybody with you when you searched
5 the guesthouse?

6 A. Yes.

7 Q. Who?

8 A. Detective Brown.

9 Q. Okay. And did Brown leave at the same time you
10 did?

11 A. Yes.

12 Q. Okay. And how long do you think again you were
13 inside the guesthouse?

14 A. Approximately 35 minutes maybe, 40 minutes.

15 Q. Okay. And you searched the living area basically
16 is what you told us; right?

17 A. Yes.

18 Q. And you knew that there was a door and another part
19 of that guesthouse structure was a garage; correct?

20 A. Correct.

21 Q. And an overhead door to the outside, you knew that;
22 right?

23 A. Garage door, yes.

24 Q. Did you even look at the garage area?

25 A. I walked inside, yes.

1 Q. So you saw it was really full of stuff? It was
2 really crowded; right?

3 A. It was packed, yes.

4 Q. And it was -- it was going to take a fair amount of
5 time to search that place; right?

6 A. Probably, yes.

7 Q. And that was going to be a harder search probably
8 than the search of the living area because there were things
9 everywhere in boxes and on shelves; right?

10 A. Correct.

11 Q. And you didn't have time because you wanted to get
12 to the autopsy; right?

13 A. It's not that I didn't have time. I just went to
14 the autopsy.

15 Q. Okay. And Brown went to the autopsy too?

16 A. Correct.

17 Q. So you all pulled out of there. You didn't talk to
18 Rhodes, for example, here? You didn't say anything to him
19 about -- about the fact that you didn't finish the search of
20 the guesthouse?

21 A. No, I did not.

22 Q. Okay. Now, I'm interested in this. You did write
23 a report eventually about the search of the guesthouse,
24 didn't you?

25 A. Yes.

1 Q. Okay. Let's -- let's find that report. Do you
2 have that report? It's narrative 114. We're up to 114.

3 A. Correct.

4 Q. Okay. And the date on that is January 28th,
5 2010; right?

6 A. Yes.

7 Q. 18 months later; right?

8 A. Yes.

9 Q. Okay. Now, interestingly enough, on
10 January 27th, the very day before that January 27th of this
11 year, there was a meeting here in Prescott about this case,
12 wasn't there?

13 A. There was a meeting, yes.

14 Q. Okay. Was the meeting with virtually everybody
15 that had worked on the case came over to Prescott for a
16 meeting on the 27th of January; right?

17 A. Correct.

18 Q. And you went to that meeting; right?

19 A. Yes.

20 Q. Mr. Butner was there; right?

21 A. Yes.

22 Q. Rhodes was there; right?

23 A. Yes.

24 Q. Mascher?

25 A. I believe so, yes.

1 Q. And John McDormett who by then was the case agent;
2 right?

3 A. Yes.

4 Q. Brown came over; right?

5 A. Yes.

6 Q. Huante came?

7 A. Yes.

8 Q. Everybody? Shonna Willingham?

9 A. Correct.

10 Q. Okay. The evidence techs?

11 A. Yes.

12 Q. Okay. And one of the themes of this meeting was
13 let's go out and fix what we might have left undone? That
14 was one of the things that all of you were told should
15 happen; right?

16 A. No.

17 Q. You were told that you should go back and look at
18 all of your work and see if there were things that you had
19 forgotten to do; right, that needed to get done; right?

20 A. I was asked to look at my report to see if that
21 area was mentioned in there and it wasn't.

22 Q. And the reason for that that just a few weeks
23 before that, there had been pretrial hearings in this case
24 and for one of many times, it was pointed out by us on the
25 defense that it did not appear that the guesthouse had ever

1 been searched. That was discussed at this meeting on
2 January 27, that that's what we were saying; right?

3 A. I don't remember that being said, no.

4 Q. And that all of the things that the defense were
5 saying were not done ought to either be done or if they were
6 done before ought to be documented? That's what this meeting
7 was about; correct?

8 A. That each individual needed to go over the reports
9 and make sure the items that were not included as far as the
10 search, correct.

11 Q. So the defense was saying something and the defense
12 was wrong, you could fix it?

13 A. No, that wasn't that at all. No.

14 Q. Okay. Well, you didn't just wake up on
15 January 28th, 2010 and said, you know, I haven't looked a
16 at my report in a year and a half. I wonder if I left
17 anything out. You had been told to do that, hadn't you?

18 A. I was asked to do it, yes.

19 Q. And so you did it. And this is what your report
20 says. It says, after reviewing my report, I realized there
21 was no reference to a search of James Knapp's residence
22 located on the Carol Kennedy property. Right?

23 A. Correct.

24 Q. Okay. And so then you remembered a year and a half
25 later that you did assist in conducting a search of that

1 building; right?

2 A. Yes.

3 Q. Okay. And you said that you searched the kitchen
4 and living area, but you didn't search the garage; right?

5 A. Correct.

6 Q. And you left at about 1530 hours, about 3:30 in the
7 afternoon; right?

8 A. Correct.

9 Q. Okay. And you left to go to the autopsy; correct?

10 A. Yes.

11 Q. And you ended with nothing further, okay. Your
12 report's about an inch; right?

13 A. Yes.

14 Q. Okay. And did you talk with Rhodes and Shonna
15 Willingham about other searches that were done of that
16 guesthouse? Did you ever have conversations with them in
17 which they said they were involved in searches?

18 A. I don't recall, no.

19 Q. Okay. Nobody ever asked you again any questions
20 about the search of the guesthouse?

21 A. No. I don't recall, no.

22 Q. That's the end of it; is that right?

23 A. Yes.

24 Q. Was that your last involvement in this case?

25 A. On that search, yes.

1 Q. Okay. Let's take a look if we could, Rich, at some
2 of the guesthouse images. That's the one I'm looking at.
3 And that is Exhibit 2863.

4 THE COURT: Excuse me, Mr. Sears. I just want
5 to note that we do need to recess in about 10 minutes.

6 MR. SEARS: Your Honor, I can -- it might be
7 better if I just go for a couple more minutes and break.
8 There will be a logical breaking point.

9 THE COURT: I just --

10 MR. SEARS: Thank you.

11 BY MR. SEARS:

12 Q. Okay. We looked at this picture before. This is
13 2863, and this is part of a living quarter in the guesthouse
14 that was occupied by Mr. Knapp; right?

15 A. It appears, yes.

16 Q. Did you ever meet Mr. Knapp?

17 A. Yes.

18 Q. Okay. We'll talk about that later on.

19 We can see in this picture here there's a
20 couple surfboards here; right?

21 A. Yes.

22 Q. Okay. And then we see over here that looks like a
23 computer keyboard, doesn't it, there?

24 A. It's kind of dark, but it appears.

25 Q. Okay. We're going to turn the lights up here in

1 just a minute.

2 You said that you didn't see anything of
3 evidentiary value and nothing was taken during the search
4 that you and Brown did of this area; is that right?

5 A. I didn't see nothing, no.

6 Q. Okay. Now, remember that -- and this is at the end
7 of the day. You've been out at this scene now since 10:00
8 o'clock; right, in the morning?

9 A. Correct.

10 Q. And so you've now been there five hours and you
11 know by then that in addition to the bicycle tracks we've
12 talked about, there is interest -- growing interest in some
13 shoe prints that were found in the open land behind these two
14 residences; right?

15 A. Yes.

16 Q. And you know that there's been -- a lot of
17 attention is being paid by law enforcement to those shoe
18 prints; right?

19 A. The other documenting, yes.

20 Q. Okay. Now -- so, therefore, it would be useful,
21 wouldn't it, to look for shoes that might have made those
22 shoe prints; right?

23 A. Correct.

24 Q. Okay. Now, this guesthouse, you can see right
25 through that window. That's Carol Kennedy's house just right

1 out that window, isn't it?

2 A. It's hard to -- it's hard to see.

3 Q. How far would you estimate the guesthouse to be
4 from the main house?

5 A. 80, 80 feet maybe.

6 Q. Okay. That's on the high end. Could it be closer?
7 You never measured; right?

8 A. I didn't, no.

9 Q. Okay. But it's not far away, is it?

10 A. No, it's not that far.

11 Q. Okay. And you can see the main house from the
12 guesthouse and the guesthouse from the main house if you're
13 looking out the right window; correct?

14 A. Yes.

15 Q. Now, the search warrant that you had that you got
16 that day that you helped write covered this structure, the
17 guesthouse and the main house; right?

18 A. Yes.

19 Q. And all the outbuildings; right?

20 A. Correct.

21 Q. And there were all kinds of things that you were
22 authorized to look for; right?

23 A. Yes.

24 Q. Okay. Now, logically, if you're -- your
25 understanding this was occupied by a gentleman named Knapp;

1 right?

2 A. To my knowledge, yes.

3 Q. Okay. And Mr. Knapp wasn't there on July 3rd;
4 right?

5 A. I didn't see him, no.

6 Q. Okay. And you understand that he had been there
7 the night before? He had been on scene the night before
8 after the murder?

9 A. I don't recall if he was, no.

10 Q. Okay. But he was apparently not detained. He was
11 allowed to leave. Did you know that?

12 A. No, I did not.

13 Q. Okay. But it would be important if he had shoes in
14 this place that could have made these impressions. That
15 would be a very useful fact. Remember, we were talking about
16 useful facts. Shoes worn by Mr. Knapp that could account for
17 some or all of these impressions that police were looking at
18 would be a real important thing to look for; right?

19 A. Shoes, yes.

20 Q. Okay. But you didn't take any; right?

21 A. I didn't, no.

22 Q. Okay. Rich, if we could zoom in on this area here.
23 And then go light. Can you brighten this up.

24 My goodness, look at the shoes. Those look
25 like hiking shoes, don't they?

1 A. I don't know.

2 Q. Those look like running shoes, don't they? Some
3 kind of sneaker?

4 A. Tennis shoes, yes.

5 Q. Another pair of low hiking shoes or boots up here;
6 right?

7 A. I can't tell, no.

8 Q. Some kind of slides or sandals down here; right?

9 A. It appears, yes.

10 Q. Okay. They were never taken; right?

11 A. No.

12 Q. You know that every pair of shoes that conceivably
13 could have been associated with those footprints were taken
14 from Mr. DeMocker's house this very same day, went to
15 Mr. DeMocker's house and cleaned out his closet of shoes;
16 right?

17 A. I don't know. I wasn't there.

18 Q. You want to look at the supplement?

19 A. I wasn't there, but I'll look at it.

20 Q. Sure. Please.

21 A. I don't find any in these supplements.

22 Q. At Alpine Meadows?

23 A. Correct.

24 Q. You don't see any shoes taken from Mr. DeMocker's
25 residence at all at Alpine Meadows?

1 A. I don't see any, no.

2 Q. Okay. We'll get you the second later on -- there
3 was a second search executed the evening of -- of July 3 at
4 Alpine Meadows where the shoes were taken.

5 Do you see there might even be more shoes over
6 here over this chair? Does that look like more shoes there?
7 Can you tell?

8 A. I can't tell.

9 Q. Okay. Okay. So you don't know how many pairs of
10 shoes are in this picture? Maybe one, two, three, four, and
11 these slides? Maybe five?

12 A. It appears, yes.

13 Q. Okay. What size shoes were those? Do you know?

14 A. No, I don't.

15 MR. SEARS: Your Honor, this would be a good
16 spot to break.

17 THE COURT: Thank you, Mr. Sears.

18 Ladies and gentlemen, we will take the evening
19 recess at this time. Please remember the admonition, and
20 please be back in the jury room by 9:00 a.m. tomorrow
21 morning.

22 And, Detective, you are excused for the
23 evening as well. Please remember the rule of exclusion has
24 been invoked, meaning you cannot communicate with any other
25 witness about your testimony or any aspect of the case until

1 the trial is completed. You -- it's a good idea not to talk
2 to anyone about the case until the trial is completed.
3 However, you can talk to the attorneys. You understand?

4 THE WITNESS: Yes.

5 THE COURT: Okay. Then we will be in recess.

6 (Proceedings concluded at 4:28 p.m.)

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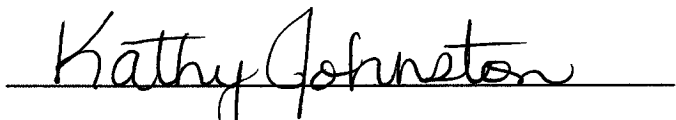
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REPORTER'S CERTIFICATE

The above and foregoing is a true and complete transcription of my stenotype notes taken in my capacity as Acting Official Reporter of Yavapai County Superior Court, Kathy Johnston, Certified Reporter No. 50164, Division Six, at the time and place as set forth.

Dated at Prescott, Arizona, this 27th day of June, 2011.


KATHY JOHNSTON
Certified Reporter No. 50164
Registered Professional Reporter

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